

DECISIONS
OF THE
RAILROAD COMMISSION

OF THE
STATE OF CALIFORNIA

VOLUME VI

JANUARY 1, 1915, TO MAY 29, 1915



CALIFORNIA
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COMMISSIONERS

DOCUMENTS
DEPT.

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CALIFORNIA RAILROAD COMMISSION DECISIONS.

Decisions Nos. 2045, 2044, grade crossings; not printed. See end of volume.

DECISION No. 2047.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF THE SUGAR PINE RAILWAY COMPANY.

Case No. 207.

Decided January 2, 1915.

Investigation upon the Commission's own motion to determine the various elements entering into the valuation of respondent's property.

Findings of fact; That the reproduction cost of the operative physical property of respondent as of June 30, 1913, is the sum of \$355,511.65; that the present value of the operative physical property of respondent as of June 30, 1913, is the sum of \$212,619.27.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is one of the valuation cases brought upon the Commission's own initiative. It was instituted under the provisions of section 20 of the Stetson Act, effective February 10, 1911, and continued under the provisions of sections 47 and 70 of the Public Utilities Act, effective March 23, 1912.

Such findings as are made in this opinion are findings of fact regarding certain factors and elements which make up the value of this property and no attempt will be made to determine its ultimate or fair value irrespective of the purpose for which the valuation might be used.

On March 11, 1912, the Sugar Pine Railway Company was ordered to prepare and file an inventory and appraisal of all physical property owned by it in the State of California. About December 26, 1913, this inventory and appraisal was received by the Commission and Exhibit "A" attached hereto is a copy of the final summary sheet which formed a part thereof.

In accordance with the usual custom of the Commission the Commission's engineering department was instructed to make an independent inventory and appraisal for the purpose of checking the report submitted by the company. About May 14, 1914, this work was started and the report was completed and submitted to the Commission on September 1, 1914. Attached to this opinion as Exhibit "B" is a copy of the final summary sheet made by the Commission's engineering department, which sums up the results of its appraisal.

On September 16, 1914, a copy of this report of the Commission's engineering department was submitted to the railway company and thereafter, on December 7, 1914, the company notified the Commission

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by letter that its board of directors had decided to accept the value set upon its property by the Commission's engineers.

The following matters are essential in an inquiry of this sort and they will be considered in the order listed:

1. Organization, construction and operation.
2. Stocks and bonds.
3. Revenues and expenses.
4. Original cost.
5. Reproduction cost.
6. Reproduction cost less depreciation.

1. Organization, construction and operation.

The Sugar Pine Railway Company was organized in February, 1903, to build a standard guage railway from Ralph, on the Sierra Railway Company's line, to a point now known as Middle Camp. The road was planned principally as a lumber and logging road and the company controlled by the interests behind the Sierra Railway Company of California who, at the same time, were the owners of large timber holdings in that region. The actual construction of the line was started in 1902. The first unit of the line was ready for operation between Ralph and Middle Camp in 1903, while the second unit, between Middle Camp and Lyons dam, was not finished until 1907, so that in that year the line was practically completed as it now exists. On May 23, 1908, the control of the property passed from Mr. T. S. Bullock, the principal stock holder and president, since the time of organization, to the Standard Lumber Company by means of a stock transaction. The details of this deal are so interwoven with other business transacted at the same time between the two parties that the actual details of the transfer are not now available. The property has remained in the control of the Standard Lumber Company ever since.

The Sugar Pine Railway Company now owns and operates in Tuolumne County 14.15 miles of standard guage railway, extending from Ralph to Lyons dam. In addition to this property the company owns one fuel oil tank and a spur track 525 feet long at Standard, and one engine house, one fuel oil tank and two spurs, 375 feet and 210 feet long respectively, at Sonora, both of these stations being on the Sierra Railway. Extending from Lyons dam to Camp Frazier, a distance of six miles, is a piece of standard guage track owned by the Standard Lumber Company. This track is a feeder to the Sugar Pine Railway, although the latter company does not operate it. The Sugar Pine Railway has, however, operating rights over the Sierra Railway from Sonora to Ralph, a distance of 9.46 miles.

The country through which this road passes in very rough. It was originally covered by sugar, white and yellow pine and fir and cedar timber, but this has been logged off, and at the present time, with the exception of one orchard, the land along the track is used for no other

purpose than grazing. The elevation at Ralph is 2,831 feet. From this point the grade ascends more or less continuously until an elevation of 4,240 feet is reached at the end of the line. The maximum grade is 4.75 per cent. The maximum curve on the line is 56 degrees, with the greater part of the many curves varying from 20 degrees to 40 degrees. The roadbed width in both excavation and embankment is about 12 feet. Most of the grading is sidehill work and about 55 per cent of the excavated material is earth. The eight trestles, which comprise all the bridges on the line, are of timber, and the culverts are constructed of rubble, timber and terra cotta pipe. The track is laid with steel weighing 30 and 40 pounds per yard and this light weight steel necessitates the use of more than the usual number of ties per mile.

No passenger trains are operated over this line. The principal business is done during the summer months while the timber and logging season continues. Practically all of the tonnage handled on the road consists of logs, and none of the company's trains operate on a regular schedule.

2. *Stocks and bonds.*

The capital stock of the Sugar Pine Railway Company consists of 10,000 shares of common stock with a par value of \$100.00 each, or a total capitalization of \$1,000,000.00. Six hundred shares of this amount was the first actually subscribed. During the construction of the road an additional 1,600 shares was subscribed for by T. S. Bullock, its president. On October 5, 1903, the board of directors authorized a bonded indebtedness to the amount of \$480,000.00, these bonds being first mortgage 5 per cent bonds maturing in forty years, with interest payable semiannually; \$180,000.00 worth of these bonds were issued on the same day, and of this amount \$155,000.00 was taken by the Standard Lumber Company and \$25,000.00 by the Sierra Railway Company. In 1910, after the control of the road had passed to the Standard Lumber Company, \$640,000.00 of additional stock was issued to the Standard Lumber Company, and at the present time the entire amount of the authorized capital stock is outstanding. Interest on the outstanding bonds has regularly been paid from the beginning. In 1909 a dividend of \$43,000.00 was declared, made up, as stated in the company's annual report for the year 1909, of accumulated profits and surplus for the years, 1906, 1907 and 1908. In 1910 dividends to the amount of \$36,000.00 were paid out of profits for the year ending December 31, 1909, and in January, 1911, a further dividend of \$110,000.00 was declared. This left a deficit on June 30, 1911, of \$14,161.42, and although no dividends were declared either in 1912 or 1913, a deficit has remained on the company's books amounting on June 30, 1913, to \$13,387.80.

It must be stated that from the annual reports of the company to this Commission the financial history of this company appears obscure and that its financial status as now shown is largely fictitious and does not represent the facts. According to the company's own reports the investment in road and equipment on June 30, 1907, when the road was practically finished, amounted to only \$180,000.00. The 1909 report shows a "total expenditure for road and equipment to June 30, 1909," of \$375,133.16. With the exception of some thousands of dollars' worth of equipment, nothing was added to the value of the property to account for the difference between \$180,000.00, and the \$375,000.00. In the 1910 report a new item is added to the capital account, namely, "cost of road purchased, \$1,000,000.00." Under the Interstate Commerce Commission's classification, which is followed by this road in its accounting, it is prescribed that to this account should be charged amounts paid for road purchased, and that where the payment is made by an issue of the company's securities or other commercial paper the cash value thereof at the time of such payment should be charged. In this case the charge of \$1,000,000.00 is purely fictitious. Not a single foot of new line in the meaning of the classification was acquired. The \$1,000,000.00 simply represented the par value of all of the authorized capital stock and is pure water. A year later 11 per cent dividends were paid on this fictitious capitalization. The company in addition to interest on funded debt has paid in all \$189,000.00 in dividends, equal to more than half of the reproduction cost new of the property as found by the engineering department's valuation. It is my opinion that this company should revise its accounts to show its financial condition in accordance with the facts. The table shown under the next caption, "Revenues and Expenses," more fully shows the financial condition of the road as represented in its accounts.

3. *Revenues and expenses.*

As stated heretofore this railway is principally a logging and lumber road. Practically all of the tonnage handled by the road consists of logs, a commodity upon which very low rates obtain, and this fact will explain the unusually low receipts per ton mile in the following tabulation:

| | |
|--|------------|
| Number of tons carried earning revenue | 53,376 00 |
| Number of tons carried one mile | 919,666 00 |
| Number of tons carried one mile per mile of road | 38,952 00 |
| Average distance haul of one ton, miles | 17 23 |
| Average amount received for each ton of freight | 1 44 |
| Average receipts per ton mile | 083 |
| Freight revenue per mile of road | 3,254 28 |

All significant traffic, revenue and other statistics are shown in the table following, which also shows the most important figures from the road's annual balance sheets:

CALIFORNIA RAILROAD COMMISSION DECISIONS.

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Traffic Revenue and Other Statistics.

| No. | Item | Amounts | | | |
|-----|---|----------------|----------------|----------------|----------------|
| | | 1909 | 1910 | 1911 | 1912 |
| 1 | Mileage owned | 15.00 | 15.00 | 14.84 | 14.15 |
| 2 | Mileage in operation | 15.00 | 23.81 | 23.65 | 23.61 |
| 3 | Capital stock authorized | \$1,000,000 00 | \$1,000,000 00 | \$1,000,000 00 | \$1,000,000 00 |
| 4 | Capital stock outstanding | 350,000 00 | 1,000,000 00 | 1,000,000 00 | 1,000,000 00 |
| 5 | Bonds authorized | \$480,000 00 | \$480,000 00 | \$480,000 00 | \$480,000 00 |
| 6 | Bonds outstanding | 180,000 00 | 180,000 00 | 180,000 00 | 180,000 00 |
| 7 | Total outstanding liability | \$540,000 00 | \$1,180,000 00 | \$1,180,000 00 | \$1,180,000 00 |
| 8 | Total outstanding liability per mile | 36,000 00 | 78,667 00 | 79,514 00 | 83,882 00 |
| 9 | Cost of road and equipment as per company's reports | Not shown | \$1,249,482 22 | \$1,251,478 71 | \$1,297,219 76 |
| 10 | Cost of road per mile of road | | 89,298 82 | 84,331 45 | 81,584 92 |
| 11 | Equipment owned—locomotives | Rented | 2 | 3 | 3 |
| 12 | Equipment owned—flat cars | Rented | 50 | 50 | 50 |
| 13 | Equipment owned—caboose* | Rented | 1 | 1 | 1 |
| 14 | Earnings—passenger | None | None | None | None |
| 15 | Earnings—freight | \$67,963 17 | \$135,656 69 | \$139,211 07 | \$65,548 15 |
| 16 | Earnings—total | | | | \$76,833 36 |
| 17 | Earnings per mile of road | 4,490 21 | 6,579 97 | 5,505 75 | 3,254 28 |
| 18 | Expenses—maintenance, way and stations | \$10,070 59 | \$18,616 01 | \$14,801 50 | \$9,388 04 |
| 19 | Expenses—maintenance, equipment | 3,401 32 | 6,180 54 | 9,062 55 | 6,218 85 |
| 20 | Expenses—transportation | 14,728 92 | 27,437 40 | 32,436 74 | 25,940 49 |
| 21 | Expenses—general | 2,880 11 | 6,507 24 | 5,927 38 | 5,786 46 |
| 22 | Expenses—total operating | \$30,980 94 | \$58,741 19 | \$52,238 37 | \$47,328 84 |
| 23 | Expenses—total operating per mile | 2,069 06 | 2,467 08 | 2,631 22 | 2,001 22 |
| 24 | Net operating revenue | \$37,912 23 | \$97,927 83 | \$88,946 94 | \$18,219 31 |
| | | | | | \$19,451 06 |

*Company owns no passenger or box cars.

Traffic Revenue and Other Statistics—Continued.

| No. | Item | Amounts | | | | |
|-----|---|-------------|-------------|-------------|-------------|-------------|
| | | 1909 | 1910 | 1911 | 1912 | 1913 |
| 25 | Railway tax accruals----- | \$550 00 | \$896 17 | \$1,686 63 | \$7,710 51 | \$2,671 84 |
| 26 | Interest on bonds----- | 9,000 00 | 9,000 00 | 9,000 00 | 9,000 00 | 9,000 00 |
| 27 | Other deductions----- | None | 7,703 15 | 4,718 87 | 4,284 65 | 4,191 42 |
| 28 | Net income----- | \$26,392 23 | \$80,328 51 | \$53,541 44 | \$2,775 85 | \$3,587 82 |
| 29 | Additions and betterments----- | \$14,825 92 | \$54,349 06 | \$3,927 09 | \$5,784 27 | \$43,623 18 |
| 30 | Sinking fund----- | Not shown | | | | |
| 31 | Total accumulated surplus at end of year----- | \$1,177 51 | \$45,430 19 | \$14,161 42 | \$16,739 87 | \$13,387 80 |
| 32 | Tonnage—per cent of total----- | Not shown | 95.10 | 97.44 | 97.17 | 88.62 |
| 33 | Tonnage—products of forests----- | Not shown | 1.86 | 1.43 | 1.58 | 10.15 |
| 34 | Tonnage—products of manufactories----- | Not shown | 3.04 | 1.13 | 1.25 | 1.23 |
| | Tonnage—all others----- | Not shown | | | | |

4. *Original cost.*

The term "original cost" means the original book cost and is defined as the actual expenditures chargeable to capital account, in accordance with the Interstate Commerce Commission's classification, in cash or its equivalent in terms of cash, by the public utility for its operative property in the State of California, as of the date of valuation.

The original cost of this property as defined above is not obtainable for the reason that its operations were interwoven first with those of Mr. Bullock of the Sierra Railway Company and later with those of the Standard Lumber Company, and the accounts not properly segregated. No attempt, therefore, will be made to make a finding regarding original cost. The road was built, however, as cheaply as possible and largely with discarded second-hand material from the Sierra Railway. Lumber for ties, bridges and culverts came from the timber lands owned by the same interest and I believe that the cost of road as stated in the company's book in 1907, viz: \$180,000.00, and covered by bonds outstanding, about represents the actual investment.

5. *Reproduction cost.*

The term "reproduction cost" is defined as the estimated cost in cash of acquiring the operative right of way and other operative real estate and of reproducing, in the condition in which it was acquired, the other physical property of the public utility in the State of California, as of the date of valuation, to which are added overhead expenditures for engineering, law, interest and commission and other similar items.

The reproduction cost, as found by the company's engineers, is \$397,673.32. The Commission's engineering department found a value of \$355,511.65, a difference of \$42,161.67. This decrease is due generally to the lower unit prices used by the Commission's engineers, together with the use of a lower percentage for interest and commissions. The greatest discrepancy (\$15,899.34) between individual accounts in the two appraisals is under account "Rails," where the Commission's engineering department estimated second-hand rails in accordance with the facts, while the company's engineers figured their rails as being new. The difference between the two appraisals under "Interest and Commissions" amounts to \$11,623.94, the company's figure being in excess of the Commission's engineers' figure. The engineering department figured interest as being 3 per cent on classes 3 to 53, inclusive, being at the rate of 6 per cent per annum for one half of the estimated construction period of one year (see Exhibit "B"), while in the company's appraisal this item is estimated as being 6 per cent on classes 1 to 53, inclusive (see Exhibit "A").

I believe the figures used by the engineering department to be in accordance with the facts as far as they can be ascertained, and since the Sugar Pine Railway Company has accepted these figures, I find as a fact that the reproduction cost, as that term is hereinbefore defined, of the Sugar Pine Railway Company's operative property in the State of California, as of June 30, 1913, is \$355,511.65.

6. *Reproduction and cost less depreciation.*

The term "reproduction cost less depreciation" is defined as the reproduction cost less the diminution in the value of the physical elements of the property, due to use, age, obsolescence, and inadequacy or other causes, this diminution being called "depreciation" and plus the increase in the value of the physical elements of the property due to age or other causes, this increase being called "appreciation."

The company's engineers, for this value, arrived at a figure of \$380,943.39, while the Commission's engineers have determined it to be \$312,619.27, making a difference of \$68,324.62. Both the Commission's and the company's engineers have derived their present value by depreciating the reproduction cost, and the same differences which obtained under reproduction cost would then be carried through to reproduction cost less depreciation. The fact that the difference between the two appraisals is greater in this column than under reproduction cost is due to the fact that the company's engineers have placed a lower rate of depreciation and a consequent higher condition per cent on the property than was considered proper by the Commission's engineering department. The company has, however, now accepted the figures of the Commission's engineers and the same reasons which lead me to accept their figures for reproduction cost lead me to accept also their figures for reproduction cost less depreciation. I find as a fact that the reproduction cost less depreciation, as that term has been hereinbefore defined, of the operative property of the Sugar Pine Railway Company in the State of California, as of June 30, 1913, is \$312,619.27.

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 2d day of January, 1915.

EXHIBIT "A." COMPANY'S APPRAISAL.

Name of owner, Sugar Pine Railway Company; operating company, Sugar Pine Railway Company; division one; from Rich to Lion. Main line, 12.5 miles, first track, 11.12 miles, second track, 2.42 miles, yard tracks, etc. 16.57; W. A. N. Wall, Inspector; date compiled, October 3, 1913.

| Class | Form No. | I. C. C. Act No. | Classes | Original cost | Reproduction value | Cond. per cent | Present value |
|---|----------|------------------|--|---------------|--------------------|----------------|---------------|
| 1 | 1 | 2 | Right of way and station grounds..... | | \$3,484 50 | | \$15,767 00 |
| 2 | 2 | 3 | Real estate..... | | 87,502 21 | | 96,252 43 |
| 3 | 3 | 4 | Grading..... | | | | |
| 4 | 4 | 5 | Tunnels..... | | | | |
| 5 | 5 | 6 | Steel bridges and trusses..... | | 9,689 68 | | 7,267 26 |
| 6 | 6 | 6 | Pile and frame trestles..... | | 2,691 62 | | 2,618 72 |
| 7 | 7 | 6 | Culverts..... | | 31,718 85 | | 20,181 41 |
| 8 | 8 | 7 | Ties..... | | 55,322 99 | | 47,024 55 |
| 9 | 9 | 8 | Rails..... | | 739 25 | | 554 44 |
| 10 | 10 | 9 | Frogs and switches..... | | 20,091 00 | | 18,081 00 |
| 11 | 11 | 10 | Track fastenings and other material..... | | 10,560 00 | | 10,560 00 |
| 12 | 12 | 11 | Ballast..... | | 13,562 00 | | 13,562 00 |
| 13 | 13 | 12 | Tracklaying and surfacing..... | | 1,748 30 | | 1,448 72 |
| 14 | 14 | 13 | Roadway tools..... | | 470 00 | | 352 50 |
| 15 | 15 | 14 | Fencing right of way..... | | 85 00 | | 71 00 |
| 16 | 16 | 15 | Crossings and signs..... | | | | |
| 17 | 17 | 16 | Interlocking plants..... | | | | |
| 18 | 18 | 16 | Signal apparatus..... | | | | |
| 19 | 19 | 17 | Telegraph and telephone lines..... | | 80 00 | | 64 00 |
| 20 | 20 | 18 | Station buildings and fixtures..... | | | | |
| 21 | 21 | 18 | Platforms, walks, paving and curb..... | | | | |
| 22 | 22 | 19 | General office buildings and fixtures..... | | 600 00 | | 540 00 |
| 23 | 23 | 20 | Shop buildings and engine houses..... | | | | |
| 24 | 24 | 20 | Transfer and turntables, cinder pits, etc..... | | | | |
| 25 | 25 | 20 | Miscellaneous shop buildings and structures..... | | | | |
| 26 | 26 | 21 | Shop machinery and tools..... | | 2,075 54 | | 1,935 26 |
| 27 | 27 | 22 | Water stations..... | | 5,302 00 | | 5,302 00 |
| 28 | 28 | 23 | Fuel stations..... | | | | |
| 29 | 29 | 24 | Grain elevators..... | | | | |
| 30 | 30 | 25 | Storage warehouses..... | | | | |
| 31 | 31 | 26 | Dock and wharf property..... | | | | |
| 32 | 32 | 27 | Electric light plants..... | | | | |
| 33 | 33 | 28 | Electric power plants..... | | | | |
| 34 | 34 | 29 | Electric power transmission..... | | | | |
| 35 | 35 | 30 | Gas producing plants..... | | 750 00 | | 562 50 |
| 36 | 36 | 31 | Miscellaneous structures..... | | | | |
| Total classes, 1 to 36, inclusive..... | | | | | \$246,412 94 | | \$241,485 69 |
| 37 | 37 | 1 | Engineering, 5 per cent, 1 to 36, inclusive..... | | 12,370 65 | | 12,074 28 |
| 38 | 38 | 32 | Transportation of men and material..... | | | | |
| 39 | 39 | 33 | Rent of equipment..... | | | | |
| 40 | 40 | 34 | Repairs of equipment..... | | | | |
| 41 | 41 | 35 | Earning and operating expenses during construction..... | | | | |
| 42 | 42 | 35 | Injuries to persons..... | | | | |
| 43 | 43 | 36 | Cost of road purchased..... | | | | |
| Total classes 1 to 43, inclusive..... | | | | | \$258,783 59 | | \$253,559 97 |
| 44 | 44 | 37 | Steam locomotives..... | | 41,000 00 | | 38,440 00 |
| 45 | 45 | 38 | Electric locomotives..... | | | | |
| 46 | 46 | 39 | Passenger train cars..... | | | | |
| 47 | 47 | 40 | Freight train cars..... | | 57,750 00 | | 50,600 00 |
| 48 | 48 | 41 | Work equipment..... | | 1,750 00 | | 1,487 50 |
| 49 | 49 | 42 | Floating equipment..... | | | | |
| Total classes 1 to 49, inclusive..... | | | | | \$359,283 59 | | \$344,067 47 |
| 50 | 50 | 43 | Law expenses, 1 per cent, classes 1 to 34, inclusive..... | | 3,592 84 | | 3,440 87 |
| 51 | 51 | 44 | Stationery and printing..... | | 200 00 | | 200 00 |
| 52 | 52 | 45 | Insurance..... | | | | |
| 53 | 53 | 46 | Taxes..... | | | | |
| Total classes 1 to 53, inclusive..... | | | | | \$363,076 43 | | \$347,728 34 |
| 54 | 54 | 47 | Interest and commission, 6 per cent, classes 1 to 53, inclusive..... | | 21,781 59 | | 20,863 70 |
| 55 | 55 | 48 | Other expenditures..... | | | | |
| 56 | 56 | 49 | Contingencies, 3 per cent, classes 1 to 53, inclusive..... | | 10,892 30 | | 10,431 85 |
| 57 | 57 | 46 | Stores and supplies on hand for use in California..... | | 1,920 00 | | 1,920 00 |
| Grand total..... | | | | | \$397,073 32 | | \$380,943 89 |
| Average per mile for main line track..... | | | | | 28,104 12 | 95.79 | 26,921 85 |

EXHIBIT "B." COMMISSION'S APPRAISAL.

Owning company, Sugar Pine Railway company; operating company, same; operating division, entire line; valuation unit, entire line; from Ralph to Lyons Dam, Tuolumne County.
Submitted with report of Assistant Engineer, M. H. Brickley, date compiled, June 12, 1914; main line first track, 14.15 miles; line second track, 2.215 miles; yard tracks, sidings, etc., 16.395 miles.

| Class No. | Form No. | I. C. C. Acct. No. | Classes | Original cost | Reproduction cost | Cond. per cent | Reproduction cost, less depreciation |
|---|----------|--------------------|---|---------------|-------------------|----------------|--------------------------------------|
| 37 | 1 | 1 | Engineering | | \$11,354 45 | 100 | \$11,354 45 |
| 1 | 1 | 2 | Right of way and station grounds | | 3,049 17 | 100 | 3,049 17 |
| 2 | 2 | 3 | Real estate | | | | |
| 3 | 3 | 4 | Grading | | 84,948 93 | 107 | 90,737 66 |
| 4 | 4 | 5 | Tunnels | | | | |
| 5 | 5 | 6 | Steel bridges and trusses | | | | |
| 6 | 6 | 6 | Pile and frame trestles | | 7,527 51 | 66 | 4,955 88 |
| 7 | 7 | 6 | Culverts | | 2,739 75 | 72 | 1,983 64 |
| 8 | 8 | 7 | Ties | | 34,335 94 | 54 | 18,688 43 |
| 9 | 9 | 8 | Rails | | 39,423 65 | 76 | 29,918 67 |
| 10 | 10 | 9 | Frogs and switches | | 1,290 87 | 72 | 930 64 |
| 11 | 11 | 10 | Track fastenings and other material | | 19,001 18 | 78 | 14,807 05 |
| 12 | 12 | 11 | Ballast | | 6,632 80 | 100 | 6,632 80 |
| 13 | 13 | 12 | Tracklaying and surfacing | | 17,712 21 | 70 | 12,487 10 |
| 14 | 14 | 13 | Roadway tools | | 1,552 26 | 75 | 1,164 19 |
| 15 | 15 | 14 | Fencing right of way | | 497 12 | 60 | 298 27 |
| 16 | 16 | 15 | Crossings and signs | | 2,352 68 | 80 | 1,882 15 |
| 17 | 17 | 16 | Interlocking plants | | | | |
| 18 | 18 | 16 | Signal apparatus | | | | |
| 19 | 19 | 17 | Telegraph and telephone lines | | | | |
| 20 | 20 | 18 | Station buildings and fixtures | | 164 00 | 80 | 131 20 |
| 21 | 21 | 18 | Platforms, walks, paving and curb | | | | |
| 22 | 22 | 19 | General office buildings and fixtures | | | | |
| 23 | 23 | 20 | Shop buildings and engine houses | | 758 50 | 80 | 606 80 |
| 24 | 24 | 20 | Transfer and turntables, cinder pits, etc. | | | | |
| 25 | 25 | 20 | Miscellaneous shop buildings and structures | | | | |
| 26 | 26 | 21 | Shop machinery and tools | | | | |
| 27 | 27 | 22 | Water stations | | 1,393 92 | 75 | 1,052 48 |
| 28 | 28 | 23 | Fuel stations | | 6,083 07 | 92 | 5,610 09 |
| 29 | 29 | 24 | Grain elevators | | | | |
| 30 | 30 | 25 | Storage warehouses | | | | |
| 31 | 31 | 26 | Dock and wharf property | | | | |
| 32 | 32 | 27 | Electric light plants | | | | |
| 33 | 33 | 28 | Electric power plants | | | | |
| 34 | 34 | 29 | Electric power transmission | | | | |
| 35 | 35 | 30 | Gas producing plants | | | | |
| 36 | 36 | 31 | Miscellaneous structures | | | | |
| 37 | 37 | 32 | Transportation of men and material | | 645 75 | 73 | 475 09 |
| 38 | 38 | 33 | Rent of equipment | | | | |
| 40 | 38 | 34 | Repairs of equipment | | | | |
| 41 | --- | 35 | Earning and operating expenses during construction | | | | |
| 42 | --- | 35 1/2 | Injuries to persons | | | | |
| 43 | --- | 36 | Cost of road purchased | | | | |
| 44 | 39 | 37 | Steam locomotives | | 42,312 00 | 93 | 39,143 00 |
| 45 | --- | 38 | Electric locomotives | | | | |
| 46 | 40 | 39 | Passenger train cars | | | | |
| 47 | 41 | 40 | Freight train cars | | 55,115 00 | 91 | 50,202 00 |
| 48 | 42 | 41 | Work equipment | | 546 91 | 80 | 437 53 |
| 49 | 43 | 42 | Floating equipment | | | | |
| 50 | --- | 43 | Law expenses, 1 per cent, classes 3 to 36, inclusive | | 2,270 80 | 100 | 2,270 80 |
| 51 | 44 | 44 | Stationery and printing, included in class 37 | | | | |
| 52 | 44 | 45 | Insurance, included in class 55 | | | | |
| 53 | 45 | 46 | Taxes, included in class 55 | | | | |
| 54 | --- | 47 | Interest and commission, 3 per cent of classes 3 to 50, inclusive | | 10,100 65 | 100 | 10,100 65 |
| 55 | 45 | 48 | Other expenditures, 1/2 of 1 per cent, classes 3 to 50, inclusive | | 1,693 44 | 100 | 1,693 44 |
| 57 | 46 | --- | Stores and supplies on hand for use in California | | 1,920 00 | 100 | 1,920 00 |
| Grand total | | | | | \$355,511 65 | 88 | \$312,619 27 |
| Average per mile for main track | | | | | 25,124 50 | 88 | 22,093 23 |
| Total road, classes 1 to 36, inclusive | | | | | 230,138 31 | 85 | 195,437 31 |
| Total equipment, classes 44 to 49, inclusive | | | | | 97,973 91 | 92 | 89,782 53 |
| Total general, classes 37 and 50 to 55, inclusive | | | | | 25,479 43 | 100 | 25,479 43 |
| Total stores on hand, class 57 | | | | | 1,920 00 | 100 | 1,920 00 |

Contingencies amount to \$8,256.30, or 2.52 per cent of reproduction values. I. C. C. Accounts 4 to 42, inclusive.

Decision No. 2048, grade crossing; not printed. See end of volume.

DECISION No. 2049.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, AGENT, ON BEHALF OF AMADOR CENTRAL RAILROAD, ET AL., FOR AN ORDER GRANTING PERMISSION UNDER SECTION 63 OF THE PUBLIC UTILITIES ACT TO AMEND RULES AND REGULATIONS GOVERNING THE TRANSPORTATION OF LIVE STOCK, AND PROVIDE FOR THE FOLLOWING CHARGES FOR SANDING STOCK CARS: SINGLE DECK CARS, ONE DOLLAR PER CAR; DOUBLE DECK CARS, TWO DOLLARS PER CAR.

Application No. 1291.

Decided January 6, 1915.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

ORDER OF DISMISSAL.

The above entitled matter was regularly tried and submitted for decision, but prior to a decision communication was received by the Commission withdrawing the application.

It is hereby ordered that the same be dismissed without prejudice.

Dated at San Francisco, California, this 5th day of January, 1915.

DECISION No. 2050.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE TWO HUNDRED NINETEEN THOUSAND DOLLARS OF BONDS.

Application No. 995.

Decided January 6, 1915.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

FIRST SUPPLEMENTAL ORDER.

This Commission having issued its order in the above entitled matter authorizing Western States Gas and Electric Company to issue and sell \$219,000.00 face value of its 5 per cent bonds, and said order having provided that the authority therein granted should apply to such bonds as should have been sold on or before October 1, 1914;

And this applicant now having reported to this Commission that of said \$219,000.00 of bonds therein authorized, \$93,500.00 face value remain unsold;

And Western States Gas and Electric Company having made application to this Commission for authority to sell said \$93,500.00 of bonds;

And it appearing to this Commission that the purposes for which the proceeds from the sale of said bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Western States Gas and Electric Company be granted authority to sell \$93,500.00 face value of its first and refunding mortgage 5 per cent bonds at a price not less than 82½ per cent of the face value thereof plus accrued interest thereon.

The authority herein granted shall apply to such bonds as shall have been sold on or before December 31, 1915.

The authority herein granted is granted upon all of the conditions set forth in this Commission's original order upon Application No. 995 (Decision No. 1342) not in conflict with the order herein.

The foregoing first supplemental order is hereby approved and ordered filed as the first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of January, 1915.

DECISION No. 2051.

MARY BELLE HARDISON

vs.

LOS ANGELES GAS AND ELECTRIC CORPORATION.

Case No. 725.

Decided January 8, 1915.

Complainant petitions the Commission to compel defendant company, operating a gas distributing system in the city of South Pasadena, to extend its main so as to enable it to serve complainant's house, and defendant advancing no justifiable reason for not making such extension, merely contending that same should be made in its regular order, which time is extremely indefinite, defendant directed to make the necessary extension within fifteen days.

Mary Belle Hardison, in propria persona.

Paul Overton, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

By this complaint it is sought to compel Los Angeles Gas and Electric Corporation to extend its pipe and furnish service to the property owned by complainant in the city of South Pasadena.

Defendant is the sole distributor of gas in the city of South Pasadena, and the distance between its present line and the property of complainant by the shortest route is 288 feet and by a longer route 335 feet.

A representative of defendant testified that if the extension was to be made it would be preferable to put it in over the longer route as there was more prospect of additional business to be had.

Complainant owns an eleven room house in the city of South Pasadena, to which she asks that the extension be made, and she has rented this house for hospital purposes and she maintains that there will be a considerable consumption of gas by the tenant.

Defendant does not contend that this extension should not be made, but on the contrary the testimony shows that defendant has heretofore agreed to make it. It is urged, however, that it should be made in its proper turn after the completion of extensions asked for prior to the time when this one was demanded.

We are not advised as to the merits of the extensions now listed by defendant as ones proper to be made in their order, and we have only before us this particular request for an extension. It appears from the testimony that this is an extension well within the reasonable service area of this company, and I believe there to be sufficient justification for ordering it in. Therefore, I recommend that an order be made that defendant extend its main, at its own expense, so as to serve the property of complainant with gas.

Herewith a form of order :

ORDER.

Complaint having been made by Mary Belle Hardison against Los Angeles Gas and Electric Corporation, and a public hearing having been had and the Commission being fully advised,

It is hereby found as a fact by the Railroad Commission of the State of California that it is reasonable and proper that defendant extend its gas distributing system in the city of South Pasadena to the premises of complainant, said premises fronting on Garfield avenue directly opposite the point of intersection of Stratford avenue with Garfield avenue in the city of South Pasadena; and basing its order on the foregoing findings of fact,

It is hereby ordered, by the Railroad Commission of the State of California, that Los Angeles Gas and Electric Corporation be and it hereby is ordered to extend its gas distributing system in the city of South Pasadena to the premises of Mary Belle Hardison, said premises fronting on Garfield avenue directly opposite the point of intersection of Stratford avenue with Garfield avenue in the city of South Pasadena, and that said extension be completed within a period of fifteen days from the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of January, 1915.

2-17498

DECISION No. 2052.

IN THE MATTER OF THE APPLICATION OF BAY SHORE RAILROAD COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF RIGHTS AND PRIVILEGES WHICH MAY BE GRANTED TO IT UNDER A FRANCHISE BY THE CITY OF SAN DIEGO HERETOFORE APPLIED FOR.

Application No. 1230.

Decided January 8, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the above entitled matter having made written request that said application be dismissed,

It is hereby ordered, by the Railroad Commission of the State of California, that said application be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this 8th day of January, 1915.

DECISION No. 2053.

CITY OF CORONA,

vs.

CORONA CITY WATER COMPANY.

Case No. 661.

Decided January 8, 1915.

City of Corona complains of its present water rates as being exorbitant and petitions the Commission to fix just and reasonable rates for such service.

Held, After valuation of defendant's property and thorough check of receipts and expenditures, that its present rates are not unjust but that a readjusted schedule embodying several slight increases is warranted. Such schedule prescribed and ordered into effect by February 1, 1915, and defendant also directed to submit for the approval of the Commission rules and regulations governing the distribution of its water.

C. R. Freeman, for Complainant.

W. J. Purington, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, Commissioner.

The city of Corona complains against the rates charged in the city of Corona by Corona City Water Company. The complaint also contains allegations against the quality of water of this company, but no evidence

was introduced as to this and it was admitted by the attorney for the city at the hearing that there was no real objection to the quality of the water.

In its answer defendant alleges that its present rates are unduly low, and prays they be increased.

At the hearing the company submitted an appraisal, or valuation, of its plant which shows a present value of \$142,121.30. The engineers of this Commission presented an appraisal of this property which shows a present value of \$124,438.00. The difference between these two valuations lies principally in the items of going concern value and an estimated amount which it would cost now to pave over the pipe lines if they were being laid at this time. Our engineer rejected both of these items, and I think properly.

The Corona City Water Company is an offshoot of the Temescal Water Company. The latter is a mutual company serving water only to its stockholders. In order to furnish the city of Corona and its citizens with water, the defendant company was organized, all of the stock being taken by the Temescal Water Company, and 500 shares of the Temescal Water Company were conveyed to the defendant company. The water received from the Temescal Water Company as a result of this stockholding is the only source of water supply, and our engineer has placed a tentative value of \$125.00 per share upon the Temescal Water Company's stock owned by the defendant company. The evidence at the hearing clearly established that in the comparatively few sales that had been made of the Temescal Water Company's stock the price for such stock was about \$75.00 per share for what is called "low line" stock and \$125.00 per share for what is called "high line" stock.

It seems that the Temescal Water Company makes no distinction as to its stock and there is no preference as between any of its stock, but it becomes necessary to locate this stock or to fix the land upon which given stock shall produce water. In locating this stock, the Temescal Water Company has made a charge of \$50.00 per share for locating stock on what are called the high line ditches, whereas no charge is made by the company for locating stock on the low line ditch. The reason for this is that the company claims that in order to keep a sufficient supply of water running in the high line ditches it is necessary to use pumps, and that this additional cost is represented by the \$50.00 per share charged for locating stock under these ditches.

The stock owned by the defendant company is located on the high line ditches, and the testimony shows that water for the city of Corona could efficiently be obtained only through these high line ditches.

At the hearing it was testified that practically no more mains would have to be located on account of new street work, and therefore the

item of \$353.00, set up in the Commission's engineer's report as an annual operating expense, may be stricken out.

The receipts and expenditures of the company for the year 1913 were as follows:

| <i>Receipts.</i> | |
|---|-------------|
| Commercial flat rate..... | \$995 00 |
| Commercial metered | 17,784 28 |
| Municipal fire hydrant..... | 109 50 |
| Street sprinkling | 375 35 |
| Sewers | 240 00 |
| Street contractors | 749 79 |
| | <hr/> |
| | \$20,253 92 |
| <i>Expenditures.</i> | |
| Annual auditing of books..... | 40 00 |
| Salary of secretary..... | 900 00 |
| Salary of manager..... | 600 00 |
| Additional help in office..... | 120 00 |
| Rent and office expense..... | 300 00 |
| Miscellaneous general expense..... | 220 00 |
| Reading meters and collecting..... | 600 00 |
| Meter repairs | 336 00 |
| Street department | 59 00 |
| Customer's premises | 19 00 |
| Repairs to mains..... | 413 00 |
| | <hr/> |
| | \$3,607 00 |
| Taxes | \$530 00 |
| Assessment on water stock..... | 9,000 00 |
| | <hr/> |
| | 9,530 00 |
| | <hr/> |
| | \$13,137 00 |
| This leaves the company a net operating revenue of..... | \$7,117 00 |
| Allowing the following items— | |
| Depreciation | \$2,032 00 |
| Interest 6 per cent | 7,466 00 |
| | <hr/> |
| | \$9,498 00 |

Leaves the company apparently with \$2,381.00 less than it should receive, but attention is called to the fact that the \$9,000.00 paid by the Corona City Water Company to the Temescal Water Company for water in the year 1913 was an unusually large amount because that year was a dry one and an unusual amount of water was required. It can not be expected that this sum will have to be paid each year. However, the adjustments hereinafter mentioned will increase the revenue of the company to some extent.

The rate of \$1.25 per month minimum for 800 cubic feet is approximately the same as has been found reasonable in many Southern California cities of the size of Corona, but the rate schedule as a whole is not well adjusted and I recommend that this adjustment be made even though some rates may be increased thereby.

It is difficult, if not impossible, to accurately fix a rate which should be charged for fire hydrant rental by cities. The reason for this is that there is only an occasional use of water from the fire hydrants, yet the size of main and water facilities must at all times be kept adequate for fire purposes in order to be ready when the demand comes.

The hydrant rental heretofore paid by the city of Corona has been 25 cents per hydrant per month. Upon an investigation of rates paid in various cities throughout the state I find that out of 27 cases in which the rates were investigated, only 7 cities paid less than \$1.00 per month. I therefore recommend that the rate for 4-inch hydrants off 4-inch or larger mains shall be \$1.00 per month per hydrant, making no change in the rate now being paid by the city for the 2-inch hydrants.

The rate heretofore charged for water used in sprinkling streets has been \$1.50 per cart per day, which has been found to be equal to about $7\frac{1}{2}$ cents per 100 cubic feet for the water used. I recommend that the rate be fixed at $7\frac{1}{2}$ cents per 100 cubic feet.

There has been an allowance of 800 cubic feet of water for the \$1.25 minimum monthly charge and all excess has been charged at the rate of $7\frac{1}{2}$ cents per hundred cubic feet. I consider it advisable to make a block system for the excess and shall recommend that the rate for the next 1,200 cubic feet in excess of the first 800 cubic feet allowed for the minimum shall be 10 cents per hundred cubic feet with a rate of $7\frac{1}{2}$ cents per hundred cubic feet for all water in excess of 2,000 cubic feet.

The present rules and regulations should be revised and defendant company should submit to this Commission for its approval a draft of such rules and regulations.

I submit herewith the following form of order :

ORDER.

Complaint having been made by the city of Corona against the Corona City Water Company, alleging excessive, unjust and unreasonable rates charged for water consumed by the city and the citizens of Corona, and a public hearing having been held and the Commission being fully apprised in the premises,

The Railroad Commission of the State of California hereby finds as a fact: That the existing rates now being charged by Corona City Water Company are to the extent that they are hereinafter ordered changed unjust and unreasonable, and it is hereby further found as a fact that the rates herein ordered to be charged by said company are just and reasonable rates.

Basing its order upon the foregoing findings of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered, by the Railroad Commission of the State of California, that Corona City Water Company file with this Commission

within a period of twenty days from the date of this order a schedule providing for the following rates for water:

\$1.25 per month minimum for the first 800 cubic feet or less.

10 cents per 100 cubic feet for all water used in excess of 800 cubic feet up to 2,000 cubic feet per month.

7½ cents per 100 cubic feet for all water used in excess of 2,000 cubic feet per month.

Four inch fire hydrants off 4-inch or larger mains, \$1.00 each per month.

Fire hydrants of smaller dimensions than 4-inch, 25 cents each per month.

Water used for flushing sewers, \$40.00 per month.

Water for street sprinkling, 7½ cents per 100 cubic feet.

The rates hereinabove found to be reasonable shall become effective February 1, 1915.

Within twenty days from the date of this order the Corona City Water Company shall submit to this Commission for its approval rules and regulations covering the distribution of water by it in the city of Corona.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of January, 1915.

DECISION No. 2054.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER COMPANY FOR AUTHORITY TO ISSUE BONDS AND NOTES.

Application No. 629.

Decided January 8, 1915.

REPORT OF THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

This Commission, on December 31, 1914, having issued its second supplemental order in the above entitled matter, authorizing the issue of \$150,000.00 of applicant's series "B" first and refunding mortgage forty year 5 per cent bonds under its mortgage and deed of trust to the Trust Company of America, a copy of which is on file with this Commission, and the applicant herein having now requested that the bonds therein authorized to be issued should be identified by numbers, to wit: Bond No. 4383 and Bonds Nos. 4394 to 4542, both inclusive,

It is hereby ordered that the authority granted in the order of this Commission in the above entitled matter rendered December 31, 1914, for the issue of \$150,000.00 of bonds, shall apply to bonds numbered as follows: Bond No. 4383 and Bonds Nos. 4394 to 4542, both numbers inclusive.

The foregoing third supplemental order is hereby approved and ordered filed as the third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of January, 1915.

DECISION No. 2055.

E. C. PHOENIX, RECEIVER, AND FAIR OAKS WATER TAKERS
ASSOCIATION

vs.

AMERICAN IRRIGATION COMPANY ET AL.

Case No. 652.

Decided January 8, 1915.

J. M. Inman, for Complainants.

O. G. Hopkins, for American Irrigation Company, American Canon
Water Company and California Corporation.

Dunn, Cowan & Brand, for R. D. Desmond and W. E. Trainor.

H. S. Derby, for Capital Banking and Trust Company.

R. L. Shinn, for D. W. Carmichael.

George & Hinsdale, for North Fork Ditch Company.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

A public hearing in this case was held at Fair Oaks, Sacramento County, on January 6, 1915. At the conclusion of the hearing complainants asked leave to withdraw the complaint, without prejudice. I recommend that the case be disposed of in accordance with this request and submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and complainants having asked leave to withdraw the complaint without prejudice,

It is hereby ordered that the complaint herein be and the same is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of January, 1915.

DECISION No. 2056.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE BY IT OF PREFERRED STOCK IN THE AMOUNT OF SIX HUNDRED FIFTY THOUSAND DOLLARS.

Application No. 1153.

Decided January 11, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Midland Counties Public Service Corporation, applicant in the proceeding entitled as above, having on January 7, 1915, made request in writing that the same be dismissed,

It is hereby ordered that the above entitled application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 11th day of January, 1915.

DECISION No. 2057.

JOSEPH F. WILSON

vs.

PEOPLES WATER COMPANY.

Case No. 736.

Decided January 11, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Joseph F. Wilson having, in the complaint in this proceeding, asked the Commission to require Peoples Water Company to install, at its own expense, a service connection and meter to supply premises of complainant in Alameda County, California, and Peoples Water Company having entirely satisfied the complaint, with the result that it is not necessary that this matter proceed to a hearing,

It is hereby ordered that the complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this 11th day of January, 1915.

DECISION No. 2058.
CITY OF MONTEREY
vs.
COAST VALLEYS GAS AND ELECTRIC COMPANY.

Case No. 533.

Decided January 11, 1915.

Complainant, city of Monterey, alleging exorbitant rates for electric energy as charged by defendant company, petitions the Commission to establish a just and reasonable schedule for such service, which schedule defendant agrees to make effective in the city of Pacific Grove, and a valuation of defendant's system having been made in connection with complaint of the city of Salinas in which investigation a schedule of rates was established for the city of Salinas, which schedule is equally applicable to the cities of Monterey and Pacific Grove, defendant directed to place in effect for the two latter named cities the schedule of rates as established by the Commission for the city of Salinas.

Fred A. Treat, for Complainant.

Chickering & Gregory, and *George H. Whipple*, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

In this case the city of Monterey complains against the rates charged for electricity in the city of Monterey by Coast Valleys Gas and Electric Company.

By stipulation at the hearing it was agreed that the rates for electricity fixed by the Commission to be charged in the city of Monterey should also be made to apply in the adjoining town of Pacific Grove, Pacific Grove being incorporated and having theretofore by an election duly turned its control over public utilities to the Commission.

Subsequent to the hearing herein this Commission, in Case No. 495, fixed the rate to be charged by defendant for electricity in the city of Salinas. By stipulation at the hearing in this case, all of the evidence introduced in said Case No. 495 was made applicable to the decision in this case.

In the opinion preceding the order in Case No. 495, the entire valuation, operating expense, depreciation and income of defendant company for all of its electrical properties are exhaustively considered. This consideration includes the electrical property here involved in the cities of Monterey and Pacific Grove.

The rates fixed in the order in said Case No. 495 are equally applicable to the cities of Monterey and Pacific Grove as to the city of Salinas. It would be useless to cover the ground already covered in the opinion in Case No. 495, and I shall adopt the facts and figures therein set out as applicable to this proceeding.

Subsequent to the original order in Case No. 495, a supplemental order was issued therein changing the rates theretofore fixed for street lighting. I recommend that the rates as fixed in the order in Case No. 495 and the order supplemental thereto as applying to the city of Salinas be adopted as the rates to be charged by the defendant company, Coast Valleys Gas and Electric Company, for electric service in the cities of Monterey and Pacific Grove.

Herewith a form of order:

ORDER.

Complaint having been made by the city of Monterey against Coast Valleys Gas and Electric Company, and a public hearing having been had and it being stipulated at said hearing that the rates fixed by the Commission for electric service in the city of Monterey should be and become the rates to be charged by Coast Valleys Gas and Electric Company for electric service in the city of Pacific Grove, and said case having been submitted and the Commission being fully advised,

It is hereby found as a fact by the Railroad Commission of the State of California that defendant's existing rates for electric energy distributed to the city of Monterey and the inhabitants thereof and the city of Pacific Grove and the inhabitants thereof are unjust and unreasonable, in so far as they differ from the rates herein established; and

It is hereby further found as a fact that the rates herein established are fair and reasonable rates for electric energy distributed by defendant to the city of Monterey and the inhabitants thereof and the city of Pacific Grove and the inhabitants thereof.

Basing its order on the foregoing findings of fact,

It is hereby ordered that Coast Valleys Gas and Electric Company be and the same is hereby directed to establish and file with the Railroad Commission within thirty days from the date of this order, the following rates for electric energy supplied to the city of Monterey and the inhabitants thereof, and the city of Pacific Grove and the inhabitants thereof:

SCHEDULE A.

General Lighting Rates.

(Including all lamp socket appliances.)

C. R. C. Classification: Service No. 1121; Rate 0021; Serial 140821-1.

First 20 kilowatt hours per month, 8 cents per kilowatt hour.

Next 30 kilowatt hours per month, 6 cents per kilowatt hour.

Next 300 kilowatt hours per month, 5 cents per kilowatt hour.

All over 350 kilowatt hours per month, 3 cents per kilowatt hour.

Minimum charge, \$1.00 per meter per month.

A service charge of \$1.00 will be required of all applicants for service, same to be refunded if applicant remains a consumer of the company continuously for twelve months at one location.

SCHEDULE B.**Yearly Rate for Series Street Lighting Service.**

(On lamp basis.)

All Night Lighting Schedule.

C. R. C. Classification: Service 2235; Rate 0800; Serial No. 141120-1.

| | |
|---|------------------|
| Arc lamps: 6.6 ampere series, enclosed arc lamps----- | \$54 00 per lamp |
| 100 watt series incandescent street lamps----- | 21 60 per lamp |
| 60 watt series incandescent street lamps----- | 17 40 per lamp |
| 40 watt series incandescent street lamps----- | 15 00 per lamp |

The above rates are for "all night" and every night service, and include all maintenance and lamp renewals necessary for such service.

SCHEDULE C.**Power Rates.**

Until the further order of this Commission, Coast Valleys Gas and Electric Company may continue to charge the existing power rates applicable within the limits of the city of Monterey and the city of Pacific Grove, with the following changes:

1. The consumer shall have the option of combining power of less than 3 horsepower and lighting at the lighting rates and at the lighting minimum, or of requiring separate power and lighting meters for each service at the rates and minimum charges applicable thereto.

2. In the case of new consumers, the company shall have the option of supplying either single or three phase current to power installations of less than 3 horsepower.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of January, 1915.

DECISION No. 2059.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF PROMISSORY NOTES AND BONDS.

Application No. 992.

Decided January 11, 1915.

REPORT OF THE COMMISSION.**THIRD SUPPLEMENTAL ORDER.**

It appearing that under the authority granted San Joaquin Light and Power Corporation by this Commission's order heretofore made in this proceeding on June 29, 1914, said corporation has issued and now has outstanding three notes as follows:

(a) Note of the face value of \$75,000.00, dated May 25, 1914, payable to Wells Fargo National Bank of San Francisco three months after date with interest at 6 per cent per annum;

(b) Note of the face value of \$75,000.00, dated May 25, 1914, payable to Wells Fargo National Bank of San Francisco three months after date with interest at 6 per cent per annum;

(c) Note of the face value of \$50,000.00, dated June 8, 1914, payable to Union Trust Company of San Francisco ninety days after date with interest at 6 per cent per annum;

And applicant having asked authority to renew these notes from time to time, but not beyond June 29, 1915, and it appearing to the Commission that said authority should be granted,

It is hereby ordered that San Joaquin Light and Power Corporation be and it hereby is authorized to issue promissory notes from time to time in renewal of the obligations represented by the notes above set forth, under the following conditions and not otherwise, to wit:

1. The notes issued under this order shall, in no instance, be for a term beyond June 29, 1915.

2. The face value of the notes issued under this order shall never exceed the amount of the unpaid principal of the three notes above set forth.

3. The notes issued under this order shall be issued at a rate of interest not to exceed 6 per cent per annum.

4. San Joaquin Light and Power Corporation shall within ten days after the issue of any note under the authority of this order report to the Commission the fact and the date of the issue of said note, together with the principal and the rate of interest thereof and the purpose and a statement of the obligation renewed by the issue of the note.

Dated at San Francisco, California, this 11th day of January, 1915.

DECISION No. 2060.

IN THE MATTER OF THE APPLICATION OF THE NEVADA-CALIFORNIA POWER COMPANY FOR AN ORDER AUTHORIZING THE EXECUTION OF A FIRST MORTGAGE COVERING ITS PROPERTIES IN CALIFORNIA AND NEVADA AND AUTHORIZING THE ISSUE OF FIRST AND REFUNDING MORTGAGE BONDS.

Application No. 1435.

Decided January 11, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The Nevada-California Power Company, applicant in the proceeding entitled as above, having on January 4, 1915, made written request to the Commission that its application be dismissed,

It is hereby ordered that the above entitled application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 11th day of January, 1915.

DECISION No. 2061.

IN THE MATTER OF THE APPLICATION OF THE MANOR WATER COMPANY FOR A REHEARING OF APPLICATION No. 1350 TO INCREASE WATER RATES AND THE DECISION THEREON, No. 2038.

Application No. 1350.

Decided January 13, 1915.

Prentice N. Gray, for Applicant.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

SUPPLEMENTAL OPINION.

In view of further developments, it appears that certain changes should be made in the order heretofore rendered.

I therefore submit the following supplemental order:

SUPPLEMENTAL ORDER.

It is hereby ordered that the former order of this Commission be amended to provide for payment of rates as follows:

- \$1.00 per month for 250 cubic feet or less, or, at the option of the consumer, 75 cents per month for 250 cubic feet or less monthly use for 12 months continuously, paid in advance.
- Excess water at 35 cents per 100 cubic feet.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of January, 1915.

DECISION No. 2062.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE THE RATES ON COTTON AND COTTON LINTERS FROM CALEXICO TO LOS ANGELES AND SAN PEDRO, AND FROM CALEXICO AND GLAMIS TO SAN FRANCISCO.

Application No. 1306.

Decided January 11, 1915.

Applicant, contending that the present rates on cotton and cotton linters from Imperial Valley points to San Pedro and San Francisco are unreasonably low, petitions the Commission for permission to increase the rate from Callexico to San Pedro from 40 cents to 50 cents and to increase the minimum carload weight between Callexico, Glamis and San Francisco and Glamis, Los Angeles and San Pedro from 16,000 pounds to 20,000 pounds, and applicant failing to justify the proposed increase in rates, such portion of the application denied. Applicant permitted to establish the increased minimum weight as applied for, provided it make effective a 40 cent per 100 pound rate between Glamis, Los Angeles and San Pedro.

Geo. D. Squires, for Applicant.

E. P. Riggle, for Imperial Valley Cotton Growers Association.

L. S. Atkinson, for Munoprio & Company and the Imperial Valley shippers.

J. J. Chappell, for the farmers and land owners.

Albert Lee Stephens and *C. B. Penn*, for the City of Los Angeles.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

Southern Pacific Company maintains the following rates on cotton and cotton linters from Glamis and Calexico to Los Angeles, San Pedro and San Francisco:

| Article | From | To | Rate in cents per 100 pounds |
|--|-----------------------|------------------------------|------------------------------|
| Cotton and cotton linters, in bales, uncompressed, minimum carload weight 20,000 pounds. | Calexico.. | Los Angeles -- San Pedro. | 40 cents |
| Cotton, in bales, uncompressed, minimum carload weight 16,000 pounds. | Glamis.... | Los Angeles -- | 50 cents |
| Cotton, in bales, uncompressed, minimum carload weight 16,000 pounds. | Calexico.. Glamis. | San Francisco. | 65 cents |

By this petition it seeks authority to change these items in the following manner and to publish the following rates:

| Article | From | To | Rate in cents per 100 pounds |
|--|--------------------------|------------------------------|------------------------------|
| Cotton and cotton linters, in bales, uncompressed, minimum carload weight 20,000 pounds. | Calexico.. Glamis.... | Los Angeles -- San Pedro. | 50 cents |
| Cotton and cotton linters, in bales, uncompressed, minimum carload weight 20,000 pounds. | Calexico.. Glamis. | San Francisco. | 65 cents |

These changes if authorized would have the effect of increasing the rate on uncompressed cotton from Calexico to Los Angeles and San Pedro from 40 cents to 50 cents per 100 pounds and advancing the minimum carload weight on uncompressed cotton from Calexico and Glamis to San Francisco, and from Glamis to Los Angeles and San Pedro, from 16,000 pounds to 20,000 pounds. The rate which the applicant seeks to increase was established by the Commission in Case 463, *Chappell vs. Southern Pacific Company*.

If permitted to make the changes proposed in the rates and minima applying on uncompressed cotton, the applicant states that it contem-

plates establishing at the same time the following rates on compressed cotton:

| Article | From | To | Rate in cents per 100 pounds |
|--|--------------------------|------------------------------|------------------------------|
| Cotton and cotton linters, in bales, compressed to a density of $22\frac{1}{2}$ pounds per cubic foot, minimum earload weight 32,000 pounds. | Calexico-- Glamis---- | Los Angeles -- San Pedro. | 40 cents |
| Cotton, in bales, compressed to a density of $22\frac{1}{2}$ pounds per cubic foot, minimum earload weight 32,000 pounds. | Calexico-- Glamis. | San Francisco. | 55 cents |

These proposed changes would effect a reduction of 10 cents per 100 pounds in the rate on cotton, compressed to a density of $22\frac{1}{2}$ pounds per cubic foot in earload lots of 32,000 pounds from Glamis to Los Angeles and San Pedro and from Calexico and Glamis to San Francisco. However, no corresponding reduction would be brought about in the rate on cotton, compressed to a density of $22\frac{1}{2}$ pounds per cubic foot from Calexico to Los Angeles and San Pedro, as under the present rate adjustment it would be transported at the rate of 40 cents per 100 pounds.

The carrier also states that, as the greater part of the California cotton crop will find its market in the orient and be transported thereto by ocean carriers from the California ports to which the rates apply, and will in the interest of economy be compressed before being shipped by such carriers because of the difference in the ocean rates on the compressed and uncompressed cotton, amounting to practically \$5.00 per ton, the only effect of the increase in the rate and minimum on uncompressed cotton will be to induce shippers to compress the cotton at or near the point of its production to the density required, thereby enabling them to ship the cotton at the lower rate it proposes to establish on compressed cotton and to secure to the carrier an increase in the earloading of approximately 12,000 pounds.

It is alleged by the petitioner that the rates and minima which it seeks to increase are too low for service rendered in transporting this commodity between the points specified, and in support of this allegation it submits comparisons with rates for the transportation of cotton similar distances in the State of Texas. Taking the rate of 51 cents per 100 pounds applying on compressed cotton from Austin to Galveston, Texas, a distance of approximately 215 miles, in connection with the alleged average loading of 32,000 pounds to 34,000 pounds per car, it calculates that the car mile earning on cotton for this distance in Texas, after deducting 10 cents for compression, approximates 61 cents to 64 cents, whereas the average car mile earning on all commodities transported in Texas during the year ending June 30, 1913, was but

17.32 cents. These earnings per car mile the petitioner contrasts with the earnings on cotton from Calexico, as a typical shipping point, to San Pedro, a distance of 250 miles, upon a minimum carload of 20,000 pounds at the proposed rate of 50 cents per 100 pounds, which approximates 40 cents per car mile, and with the average car mile earnings on all commodities on the entire Southern Pacific Company system, of 21 cents. In this connection it urges that the rates in Texas are abnormally low as a result of continued reductions by the regulating body of that state and that the cotton tonnage in Texas is very large—in fact, contributes more tonnage to the total traffic of the state than any other single commodity, whereas in California the cotton tonnage constitutes but a small proportion of the total tonnage carried and in relation to the tonnage of cotton transported in Texas is inconsiderable. From these facts petitioner concludes that the comparison of the car mile earnings on cotton of itself and when considered in relation to the car mile earnings on all commodities in the respective states demonstrates that the rates in California are too low. The petitioner also contends this Commission erred in establishing the rate of 40 cents per 100 pounds on cotton from Calexico to San Pedro and Los Angeles, which the petitioner here seeks to increase, in so far as the average car mile earnings on the entire Southern Pacific system were taken to measure a reasonable rate on cotton from Calexico to San Pedro.

Representatives of Imperial cotton growers and shippers of the city of Los Angeles appeared at the hearing in opposition to the proposed changes. The city of Los Angeles contends that the present rates on uncompressed cotton from Calexico to Los Angeles and San Pedro are not low when considered in relation to the present rates on that commodity from Calexico to San Francisco, the distance from Calexico to San Pedro being approximately 250 miles, whereas the distance from Calexico to San Francisco is 695 miles, in part over a considerable mountain range. The applicant alleges in this connection that the rate from Calexico to San Francisco is abnormally depressed because of water competition between San Pedro and San Francisco and in no sense should be a measure for the rate to Los Angeles and San Pedro, and that it is necessary to maintain a lower rate relatively to San Francisco to secure for its line the long haul into that port.

The growers and shippers of the Imperial Valley also contend that if the carrier is permitted to increase the rate on uncompressed cotton from Calexico to Los Angeles and San Pedro and thereafter to apply the present rate only on cotton compressed to a density of 22½ pounds per cubic foot and thereby force the shippers to compress their cotton before shipping it in order to enjoy that rate of transportation, the carriers should be required to establish concurrently with the rates

on compressed cotton, rules relating to its compression similar to those obtaining in other cotton growing sections whereby the compress operators would be made liable for any excess in freight charges due to their failure to compress the cotton sufficiently to entitle it to the lower transportation rate. Protestants state that they have no means of enforcing compress operators to compress the cotton to the required density, as the operators will not always agree to such a condition, and that the carrier is in a position to enforce such a liability by a rule in its tariff. These protestants also urge that the carrier be required to adopt other rules similar to those in effect on other lines in cotton shipping sections relating to the concentration of cotton and the issuance of bills of lading therefor.

The rate of 51 cents per 100 pounds applicable on cotton from Austin to Galveston, Texas, on which petitioner predicates the typical car mile earnings in Texas for a distance similar to that between Callexico and San Pedro is a blanket rate prescribed by the Railroad Commission of the State of Texas for the transportation of cotton in any quantity for any distance greater than 210 miles. It includes and covers all switching, loading, unloading, or terminal charges incidental to the transportation of the cotton to the Texas ports in addition to the allowance of 10 cents per 100 pounds for compression. The rate from Callexico to San Pedro is a maximum net rate between those points. It does not cover the cost of loading or unloading the cotton and applies only on a minimum earload of 20,000 pounds.

It appears clear to me that the car mile earnings on the Texas rate for the single distance of 215 miles does not reflect the average result in car mile earnings on this rate. The relatively high car mile earnings shown on this rate might be materially reduced if averaged with the car mile earnings for greater distances to which the same rate also applies. In fact, this is true of all so-called blanket rates, the nearby territory falling within a "blanketed" zone contributing the greater earnings to compensate for the lower earnings to distant territory in such zones. On the other hand the distance from Callexico to San Pedro is the maximum distance over which the rate of 40 cents per 100 pounds extends, and car earnings thereon would represent the minimum car earnings on that rate.

In view of these circumstances, I am of the opinion that the comparison does not reflect the same conditions or conclusively indicate that the rate from Callexico to San Pedro is unduly low. Nor am I inclined to concede as the petitioner suggests, that the Texas rates are abnormally low. The same presumption of reasonableness attaches to rates established by a state commission as to rates voluntarily established and maintained by carriers.

Under all the circumstances, I am of the opinion that the applicant has failed to sustain the burden of justifying the proposed increase in the rate on uncompressed cotton from Calexico to Los Angeles and San Pedro, and that its petition in that respect should be denied.

The protestants do not dispute that the proposed minimum of 20,000 pounds can be loaded under the present method of packing and shipping cotton without hardship, and I therefore recommend that the petition, in so far as it seeks to increase the minimum carload weight on cotton and cotton linters, in bales, uncompressed, from Calexico and Glamis to San Francisco and from Glamis to Los Angeles and San Pedro from 16,000 to 20,000 pounds, be granted, conditioned upon the applicant's reducing the rate on uncompressed cotton from Glamis to San Pedro and Los Angeles from 50 cents to 40 cents per 100 pounds.

In this proceeding, which is an application under section 63 of the Public Utilities Act for authority to make certain increases in rates and minima, the jurisdiction of the Commission is confined to determining from the evidence whether the proposed increases are justified and having determined that question it may not independently grant the affirmative relief sought by certain protestants herein. It would be useless, therefore, to consider whether in a proper proceeding the carrier can be required to establish the rules relating to the compression and concentration of cotton which the protestants desire.

I recommend the following form of order:

ORDER.

Southern Pacific Company having filed its application for authority to increase its rate for the transportation of uncompressed cotton, carloads, from Calexico to Los Angeles and San Pedro from 40 cents to 50 cents per 100 pounds, and to advance the minimum carload weight on uncompressed cotton from Calexico and Glamis to San Francisco and from Glamis to Los Angeles and San Pedro from 16,000 pounds to 20,000 pounds, and a hearing having been held on said application and a full investigation of the matters and things involved having been made and the Commission finding that the Southern Pacific Company has failed to justify the proposed increase in rates, but should be granted authority to increase the minimum carload weight as proposed,

It is hereby ordered that Southern Pacific Company be and it is hereby authorized to increase the minimum carload weight on uncompressed cotton from Calexico and Glamis to San Francisco and from Glamis to Los Angeles and San Pedro from 16,000 pounds to 20,000 pounds upon the condition that the rate on uncompressed cotton from Glamis to San Pedro and Los Angeles be reduced from 50 cents to 40 cents per 100 pounds, concurrently with the increase in the minimum carload weight hereby authorized; and

It is further ordered that as to all other matters the application of Southern Pacific Company be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of January, 1915.

DECISION No. 2063.

CITY OF COALINGA

vs.

PLEASANT VALLEY WATER COMPANY, AND COALINGA CONSOLIDATED
WATER COMPANY.

Case No. 623.

IN THE MATTER OF THE APPLICATION OF PLEASANT VALLEY WATER
COMPANY AND COALINGA CONSOLIDATED WATER COMPANY FOR
PERMISSION TO INCREASE RATES FOR WATER FURNISHED TO
THE CITY OF COALINGA AND THE INHABITANTS THEREOF.

Application No. 1341.

Decided January 13, 1915.

Complainant alleging unjust rates for water in the city of Coalinga, petitions the Commission to fix just and reasonable rates for such service, whereupon defendants file their application requesting permission to increase their present rates, contending, among other things, that the population of Coalinga is decreasing at such a rate that the city will be extinct within ten years and that they accordingly should be permitted a rate providing an annuity sufficient to amortize the value of their plant within this period. Applicants also claim a prescriptive right to water pumped from their wells, placing a valuation of \$30,000.00 thereon.

Held, That applicants have no just claim to a prescriptive right to their underground supply of water and can place no value thereon. That it is unreasonable to assume that the city of Coalinga will cease to exist within so short a period as claimed by applicants and the amortization annuity claimed is accordingly excessive. After valuation of defendants' property used in the service of complainant and an investigation into all conditions surrounding such service: That the present rates are just and reasonable, with the exception of the rate paid for fire service, which rate is increased from \$100.00 to \$140.00 per month. Complaint and application in all other respects dismissed.

Henry S. Richmond, for Complainant.

A. E. Shaw, for Defendants.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

These two proceedings, which were consolidated for hearing and decision, involve the rates to be charged for water sold to the city of Coalinga and to the inhabitants thereof, for domestic and fire protection purposes.

The complaint in Case No. 623 alleges, in effect, that Pleasant Valley Water Company is a corporation engaged in the sale of water for domestic purposes to the city of Coalinga and the inhabitants thereof; that Coalinga Consolidated Water Company is a corporation engaged in the sale of water for domestic and manufacturing purposes in the vicinity of Coalinga, Fresno County, California; that these two corporations have entered into a contract whereby the Coalinga Consolidated Water Company, hereinafter referred to as the Coalinga Company, supplies to Pleasant Valley Water Company, hereinafter referred to as the Pleasant Valley Company, all the water sold by the Pleasant Valley Company, in return for the payment of one half the gross proceeds derived by the Pleasant Valley Company from the sale of water; that the Pleasant Valley Company is charging for water a minimum rate per month for each meter connection of \$2.00 for hard water and an additional meter rate of 2 cents per barrel for all hard water used over 100 barrels per month, and also a minimum rate per month for each meter connection of \$1.00 for distilled water and an additional meter rate of 16 $\frac{3}{4}$ cents per barrel for all distilled water used over 5 barrels per month; and that these rates are excessive and unreasonable. Complainant asks this Commission to establish a minimum rate for each meter connection of \$1.00 for hard water and an additional meter rate of 1 $\frac{1}{4}$ cents per barrel for all hard water used over 80 barrels per month, and also a minimum rate of 75 cents per month for distilled water and an additional meter rate of 10 cents per barrel for all distilled water used over 7 $\frac{1}{2}$ barrels per month. Complainant also asks that the contract between the Coalinga Company and the Pleasant Valley Company be abrogated and that the Coalinga Company be directed to sell hard water to the Pleasant Valley Company for the amounts specified in the complaint.

The Pleasant Valley Company and the Coalinga Company each filed an answer denying that the rates charged are unjust and unreasonable, and alleging that the rates charged for water supplied to the city of Coalinga and the inhabitants thereof are too low and should be increased.

These companies later filed their petition, in Application No. 1341, asking that this Commission increase the rate for water sold by the Pleasant Valley Company in the city of Coalinga for other than fire purposes, to \$3.00 per month for each tap, with an additional charge of 50 cents for each 1,000 gallons used in excess of 3,000 gallons per month. The petitioners asked that the rate for water furnished to the city of Coalinga for fire purposes be fixed at the sum of \$100.00 per month. Subsequently, petitioners asked and were granted leave to amend this application so as to ask that the Commission establish a just and reasonable rate to be charged for water delivered to the city of

Coalinga for fire purposes, irrespective of the rate of \$100.00 per month now in effect for this service.

Public hearings were held in the city of Coalinga on September 2 and 3, 1914, and in San Francisco on September 23 and 24 and November 16, 1914. Careful consideration has been given to the transcript of the evidence and to the exhibits introduced, and these proceedings are now ready for decision.

The Coalinga Company is the owner of a ten-acre tract of land located about $3\frac{1}{2}$ miles distant from the city of Coalinga, and described as the northwest $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of section 16, township 20 south, range 15 east, M. D. B. and M., whereon the company has bored six wells for water, in addition to a seventh well which is not claimed in the company's inventory. The company was originally incorporated for the purpose of selling water to oil companies operating in the Coalinga oil fields, and the company's operations prior to 1909 were confined to this class of business, without the sale of any water for use in the city of Coalinga.

Prior to 1909, the city of Coalinga was supplied with water for domestic uses from tank cars or from wells, the water whereof contained a large percentage of sulphur and was not satisfactory for domestic use. The provisions for fire protection were entirely inadequate. On April 28, 1909, J. L. Chaddock and W. H. Stenger, owners of the stock of the Coalinga Company, entered into an agreement with the Pleasant Valley Company, whereby Chaddock and Stenger agreed to construct a pipe line from their property to the city of Coalinga in return for capital stock in the Pleasant Valley Company, to be issued at par, in exchange for the pipe line at cost. The issue of the stock was to be made conditional upon the ability of the Coalinga Company to supply through this pipe line at least 10,000 barrels of good water per day. Upon the issue of the stock, as agreed, the Pleasant Valley Company was to become the owner of the pipe line and the rights of way along which the same might be laid. This contract contains other provisions to which it is not necessary now to refer. Under a subsequent arrangement, it was provided that the Pleasant Valley Company should pay to the Coalinga Company, in return for the water received from that company, 50 per cent of the gross revenue received by the Pleasant Valley Company from the sale of water to the city of Coalinga and to the inhabitants thereof. Under a separate contract, provision was made for the sale by the Coalinga Company to the Pleasant Valley Company of distilled water which the Pleasant Valley Company conducts through a separate pipe system to the city of Coalinga, where the water is sold and delivered through this pipe system for drinking and other domestic purposes. The rates charged by Pleasant Valley Com-

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pany for distilled water are not seriously questioned in these proceedings and it will not be necessary to establish rates therefor.

In examining the rates proper to be charged by the Pleasant Valley Company for water supplied to the city of Coalinga and to the inhabitants thereof, other than distilled water, I shall consider the following subjects in order:

1. Value of property.
2. Depreciation and amortization annuities.
3. Maintenance and operating expenses.
- 4 The rate.

1. Value of Property.

In determining the value of the property for the purpose of these proceedings, it will be necessary to consider separately the property of the Coalinga Company and that of the Pleasant Valley Company.

The property of the Coalinga Company is used in part exclusively for service to the oil fields and in part jointly for service to the oil fields and to the Pleasant Valley Company for its service to the city of Coalinga and the inhabitants thereof.

This Commission's hydraulic department estimated that the cost to reproduce new the property of the Coalinga Company, which is jointly used for service to the oil fields and to Coalinga, is \$48,009.00. Mr. Gale S. Strout, engineer for the water companies, estimated that the cost to reproduce these properties jointly used, is \$80,092.00. This sum, however, includes in addition to an item of \$2,500.00 for the land, an item of \$30,000.00 for water rights. This item is added on the theory that the Coalinga Company has acquired, by prescriptive use, a right to water which is additional to the value of the land and water before the alleged prescriptive right was acquired. While the rule in this state, in accordance with the immemorial rule applied in England, was formerly that title by prescription can not be acquired to underground waters (*Harrison vs. McCue*, 42 Cal. 303), this rule was apparently changed by the Supreme Court of this state in *Hudson vs. Dailey*, 156 Cal. 617, 629. However, it was clearly indicated by Mr. Justice Shaw in the *Hudson* case that no prescriptive rights accrue unless it be shown that the party claiming this right has used the water in such a way as to interfere with the use of the water by other land owners or so as to make the use of the party claiming the prescriptive right adverse to other land owners and to establish a prescriptive right. The party claiming the prescriptive right must allege and prove that he has taken more than a reasonable proportion of the water.

There is no evidence in the present case that the Coalinga Company has used the underground waters in such a way as to interfere with the use thereof by other land owners or that the Coalinga Company has

taken more than its fair and reasonable share of the waters which underlie its lands and those of other persons owning lands in this general vicinity. I am accordingly of the opinion that no value should be allowed for water right in addition to the value which adheres to land in this vicinity, including the usual right to the use of a reasonable amount of water developed by the sinking of wells.

The problem of ascertaining what portion of the Coalinga Company's property jointly used for service to the oil fields and to the city of Coalinga is chargeable to the city of Coalinga is not free from difficulties.

The water companies made the segregation on the basis of the relative amounts of water used in the oil fields and in the city of Coalinga on August 10, 1914. The total amount so used was 247,650 gallons, of which 91,630 gallons, or approximately 37 per cent, was used in the fields and 156,020 gallons, or approximately 63 per cent, was used in the city of Coalinga. The evidence, however, shows that in the month of August the use of water in the city of Coalinga is higher than in almost any other month of the year. Consequently, the percentages thus established are manifestly unfair to the city of Coalinga.

The Commission's hydraulic department used percentages of segregation based on the relative use of water during the year 1914. It appears that the percentage of water used in the oil fields is gradually decreasing, due to less active development of the fields, and that the percentage of water used charged to the city of Coalinga is accordingly increasing. The following table clearly shows this situation:

TABLE No. I.
Use of water in oil fields and city of Coalinga.

| Year | Field | Field's per cent of total | City | City's per cent of total |
|-------------------|-------------------|---------------------------|-------------------|--------------------------|
| 1910 ----- | 2,100,000 barrels | 59.7 per cent | 1,417,674 barrels | 40.3 per cent |
| 1911 ----- | 1,400,000 barrels | 53.2 per cent | 1,232,687 barrels | 46.8 per cent |
| 1912 ----- | 1,140,000 barrels | 48.8 per cent | 1,198,944 barrels | 51.2 per cent |
| 1913 ----- | 854,100 barrels | 42.9 per cent | 1,133,739 barrels | 57.1 per cent |
| 1914 to August 31 | 388,300 barrels | 36.4 per cent | 677,761 barrels | 63.6 per cent |

It appears from this table that the use of water in the oil fields has diminished from 2,100,000 barrels in 1910 to 388,300 barrels in the first eight months of 1914, and that the percentage of water used in the fields has decreased from 59.7 per cent of the entire amount of water pumped in 1910 to 36.4 per cent during the first eight months of 1914. Likewise, it appears that the percentage of the entire amount of water pumped used in the city of Coalinga has increased from 40.3 per cent in 1910 to 63.6 per cent in the first eight months of 1914. If the hydraulic department's test is logically applied year by

year, it will follow that if the use of water for the oil fields should cease, the city of Coalinga would be charged with the value of the entire property now devoted to the joint service of the field and of the city. In view of the fact that more property is devoted to this joint service than would be necessary if the city of Coalinga were alone served, it seems clear that an injustice may be done the city of Coalinga if the basis used by the hydraulic department is consistently applied. If the Commission knew the cost of a substitute water system large enough to supply only the needs of the city of Coalinga, it would be easier to ascertain the value to be allowed for the property used in the development of water. There is no evidence, however, on this question.

After a careful consideration of the different bases which have been suggested and of the evidence concerning the value of the property jointly used I find as a fact that the sum of \$24,000.00 represents at least a fair value of that proportion of the joint property which is justly chargeable to the city of Coalinga's use.

Referring now to the value of the property of the Pleasant Valley Company, the Commission's hydraulic department estimates the cost to reproduce new the sum of \$58,876.00, to which amount the department suggested the addition of \$1,900.00 for working capital. As the entire maintenance and operating expenses of this company are only slightly in excess of \$6,000.00 per year, it seems clear that the allowance for working capital is largely in excess of a proper allowance.

The water companies estimated the cost to reproduce the property of the Pleasant Valley Company at \$72,524.00. This total, however, includes an item of \$13,265.00 "for intangibles," which were explained to represent the losses of the company in the creation of a portion of its business. The Coalinga Company's manager stated that this item is simply an estimate. This Commission has heretofore on several occasions said that the cost of developing the business, if reliable evidence is presented, should be considered and that this cost should be taken care of either in rates high enough during the early stages of the utility's operations to take care of this expense or by adding the expense to capital account and allowing a return thereon during subsequent years. If the item has been fully covered in one of these two alternative methods, it seems clearly erroneous to claim it again under the other alternative. The evidence in these proceedings shows that on March 18, 1912, the directors of the Pleasant Valley Company unanimously adopted a resolution as follows:

Resolved, That, whereas, the assets of this corporation are more than seventy-one thousand dollars, and whereas, the cash received from the sale of 33,769 shares of the capital stock outstanding to date is thirty-four thousand one hundred forty-eight dollars and fifty cents, and whereas, the additional amount of such assets has

been accumulated from the earnings of the company, which said earnings, instead of having been distributed as a dividend to the stockholders and then afterwards paid in by said stockholders for additional capital stock, have been deferred from said stockholders and have gone into mains and other extensions; now, therefore, be it resolved, that one additional share of the capital stock of this corporation be issued to the present stockholders for each share of the capital stock now owned and held by them, and the president and secretary of this corporation be, and they are hereby authorized and directed to so issue the same forthwith.

The additional capital stock was actually issued as authorized by this resolution. This resolution clearly shows that in the judgment of the board of directors, the earnings in the three years 1909 to 1912 had been in excess of 100 per cent of the cash actually paid for the outstanding stock. In view of this condition, it must be clear that such development expenses as were incurred during the first years of the Pleasant Valley Company's history have been more than repaid from earnings of the first few years and that it would be most unfair to compel the rate payers now to again pay for these costs by adding to capital account an item for development expenses.

I find as a fact that the sum of \$59,376.00 is a fair and reasonable value to assign to the property of the Pleasant Valley Company, on which property the company is entitled to a return.

2. Depreciation and Amortization Annuities.

A reasonable allowance must, of course, be made for a depreciation annuity. This allowance will be made on the sinking fund basis.

In addition to an allowance under this head, the water companies claim an allowance under the head of amortization annuity amounting to 3.33 per cent of the value of the property each year for the purpose of amortizing the property. This allowance is asked for on the theory that the city of Coalinga will be extinct within ten years from date and that the property of the water companies will thereupon lose all value except salvage value. There is evidence in these proceedings showing that the population of Coalinga has decreased during the last year or two, and also evidence that the operations in the oil fields, on which Coalinga is at the present time largely dependent, have diminished during the last year or two. The evidence, however, also shows that the major portion of the oil lands in the vicinity of Coalinga are still to be developed. In my opinion, based on the evidence herein, it is going very far to say that the city of Coalinga will cease to exist ten years from date, or even fifteen or twenty years from date. The general manager of the water companies testified that he was having considerable success in raising deciduous fruit trees on the land of the Coalinga Company; that the land in this vicinity was good land for

agricultural purposes; and that, in his opinion, there is a considerable field for the development of these lands when placed under irrigation. According to this testimony, even if the development of the oil fields should gradually decrease, the city of Coalinga might nevertheless continue to exist as a center of an agricultural community. The evidence that the city will be defunct in ten years is contrary to other evidence to the effect that the oil fields are only partially developed and that this territory may hereafter be developed for agricultural purposes, and I can give but little weight to it.

I find as a fact that an allowance of \$6,000.00 per annum is at least a fair and reasonable allowance to be made for depreciation annuity as affected by ultimate amortization.

3. Maintenance and Operation.

I find that the sum of \$7,794.00 is a fair and reasonable sum to be allowed annually for that portion of the maintenance and operating expenses of the Coalinga Company which is fairly chargeable to the city of Coalinga, and that the sum of \$6,295.50 is a reasonable sum to be allowed for the annual maintenance and operating expenses of the Pleasant Valley Company for its service of water for domestic and fire purposes, and that the sum of \$400.00 per year should be allowed for the gradual payment of the expenses of these hearings, until the reasonable cost of these hearings has been paid for. If the water companies desire to be generous and to pay expenses for these hearings in excess of those which their present financial condition warrant, they must be generous at their own expense and not at the expense of their consumers.

4. The Rate.

The receipts of the Pleasant Valley Company from the sales of domestic water and from water sold to the city of Coalinga for fire and other purposes have been as follows:

TABLE NO. II.

Receipts of Pleasant Valley Water Company from water sold for domestic purposes.

| | | |
|------|-------|------------|
| 1909 | ----- | \$7,207 00 |
| 1910 | ----- | 26,998 00 |
| 1911 | ----- | 26,161 00 |
| 1912 | ----- | 27,309 00 |
| 1913 | ----- | 26,096 00 |

The water companies' Exhibit No. 6 shows an income for the year ending June 30, 1914, from the sale of domestic water and water sold to the city of Coalinga amounting to \$24,624.80. This amount includes \$800.00 paid by the city of Coalinga for fire protection, but does not include the remaining sum of \$400.00 still due from the city for this

service at the rate of \$100.00 per month. When this amount is collected, the revenue for the year ending June 30, 1914, will accordingly be \$25,024.80. This item will be somewhat increased by the collection of other accounts which have not as yet been paid. There is evidence that the revenue received from the sale of water in Coalinga has been decreasing for the last two years or so, and it may well be that the revenues for the year ending June 30, 1915, will be less than those for the year ending June 30, 1914. If the amount of water sold decreases and the number of consumers is less, the operating and maintenance expenses will also be less. In this opinion I am allowing the full amount paid by the Pleasant Valley Company for maintenance and operating expenses for the year ending June 30, 1914, and the full amount of the operating and maintenance expenses of the Coalinga Company fairly chargeable to the city of Coalinga during the same period.

The rates charged for domestic water supplied to the inhabitants of Coalinga are already high and can not reasonably be increased. I find, however, that the rate paid by the city of Coalinga for fire protection should be increased from \$100.00 to \$140.00 per month.

While, even with this increase in the rate, the returns to the water companies will be less than they have hitherto expected to receive, I find that, considering the conditions actually existing at Coalinga, as shown by the evidence in these proceedings, the rates now prevailing, as herein modified by the increase in the rate for fire protection, are as high as the water companies can reasonably and justly charge.

In all respects other than the increase of the rate paid by the city for fire protection, I find that the complaint and the application should be dismissed.

I submit the following form of order :

ORDER.

The above entitled proceedings having been consolidated for hearing and decision, and public hearings having been held therein and said proceedings having been submitted, and being now ready for decision,

It is hereby ordered that the rate paid by the city of Coalinga for water supplied for fire purposes be and the same is hereby increased from \$100.00 per month to \$140.00 per month, but that in all other respects the complaint and the application herein be and the same are hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of January, 1915.

DECISION No. 2064.

IN THE MATTER OF THE APPLICATION OF THE CITY OF SAN DIEGO
FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF ASHER
STREET AT GRADE ACROSS THE TRACKS OF THE ATCHISON,
TOPEKA AND SANTA FE RAILWAY COMPANY.

Application No. 1112.

Decided January 13, 1915.

City of San Diego having applied for permission to open Asher street across the tracks of The Atchison, Topeka and Santa Fe Railway Company, and it appearing that though a crossing will ultimately be necessary in this vicinity the crossing applied for would be extremely dangerous owing to a deep cut through which trains pass immediately before reaching the crossing, present application accordingly denied without prejudice to its renewal for crossing at a more advantageous location.

T. B. Cosgrove, city attorney, and *S. J. Riggins*, deputy city attorney,
for Applicant.

M. W. Reed, for The Atchison, Topeka and Santa Fe Railway Company.

J. M. Asher, *in propria persona*.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for an order authorizing the construction of Asher street, at grade, across the tracks of The Atchison, Topeka and Santa Fe Railway Company at a point some five miles north of the foot of Broadway, in San Diego. Asher street is one of the streets of the Asher Cloverleaf Terrace Subdivision of the city of San Diego. The street, as laid out on the officially accepted and recorded map of Asher's Cloverleaf Terrace Subdivision, runs in a southeasterly direction from the waters of Mission Bay, across the tracks and the fifty foot right of way of the Los Angeles and San Diego Beach Railway Company; thence across a narrow strip of property between this right of way and the right of way of The Atchison, Topeka and Santa Fe Railway Company; thence across the tracks and one hundred foot right of way of The Atchison, Topeka and Santa Fe Railway Company; thence across another narrow strip of privately owned property; thence across the city boulevard, fifty feet wide, here known as Elizabeth street; and thence up the gentle slopes of the Asher Cloverleaf Terrace Subdivision.

As the application is now presented, the city of San Diego asks authority to construct Asher street simply across the tracks of The Atchison, Topeka and Santa Fe Railway Company so as to reach a station on the line of the Los Angeles and San Diego Beach Railway Company. It seems to be the intention, also, to continue Asher street over the right of way and tracks of the Los Angeles and San Diego Beach Railway Company to the waters of Mission Bay, for the purpose of

gaining access to the bay front, but the application in its present form is confined to the construction of this street across the tracks and right of way of The Atchison, Topeka and Santa Fe Railway Company.

At present only one house has been constructed on this subdivision. The only way in which people in this general vicinity can conveniently reach the business section of San Diego by common carrier is by means of the Los Angeles and San Diego Beach Railway Company's local service between Asher station and its terminus in San Diego. At present, The Atchison, Topeka and Santa Fe Railway Company has barred this access over its tracks by means of a barb wire fence, and the only way to reach the Asher street station of the Los Angeles and San Diego Beach Railway Company is to trespass across the property of The Atchison, Topeka and Santa Fe Railway Company.

There are no road crossings over the tracks of The Atchison, Topeka and Santa Fe Railway Company within a half mile on either side of Asher street. There is no doubt that public convenience and necessity will require the opening of a crossing somewhere in this vicinity across the tracks of both The Atchison, Topeka and Santa Fe Railway Company and of the Los Angeles and San Diego Beach Railway Company. The particular crossing now desired, however, is a dangerous one by reason of the fact that only a few hundred feet to the south is situate what is known as Crown Point, through which the trains of The Atchison, Topeka and Santa Fe Railway Company pass by means of a through cut in a steep hillside in such a way that trains coming from the south would be almost upon people crossing the tracks of this company at Asher street before they could be warned, unless expensive signal devices are installed.

Furthermore, if the crossing is now constructed on Asher street, people who will hereafter live in the tract to the north will likewise demand a crossing. If the crossing were made by means of an extension of Littlefield street, being the street next to the north of Asher street, the danger would be avoided and this general territory would be much better served than by the extension of Asher street.

While the application must be denied in its present form, such denial will be without prejudice to the filing of a new application covering a more satisfactory point of crossing, as herein indicated.

The city of San Diego will probably desire in its next application to cover the entire situation by including also a crossing over the tracks of the Los Angeles and San Diego Beach Railway Company, so as to give to the territory in this general vicinity access to Mission Bay.

I submit herewith the following form of order:

ORDER.

City of San Diego having filed its application for an order authorizing the construction of Asher street, at grade, across the tracks of The

Atchison, Topeka and Santa Fe Railway Company, and a public hearing having been held on said application, and the Railroad Commission finding that the point of proposed crossing is dangerous unless protected by expensive safety appliances and that the public convenience would be better served by a crossing at a point north of the proposed crossing,

It is hereby ordered that this application be dismissed, without prejudice to the right of the city of San Diego to file a new application, as indicated in the opinion herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of January, 1915.

DECISION No. 2065.

IN THE MATTER OF THE APPLICATION OF ANNA DELL SEGNO, FOR INVESTIGATION OF THE VALUE OF APPLICANT'S PLANT AND ESTABLISHING JUST AND REASONABLE RATES TO BE CHARGED FOR WATER IN OCEAN PARK HEIGHTS DISTRICT.

Application No. 1374.

Decided January 13, 1915.

Applicant, operating a water distributing system in the district known as Ocean Park Heights, having improved such system in conformity with previous suggestions of the Commission, now applies to the Commission to establish a schedule of rates to be charged consumers of such utility. After investigation the following rates established to become effective February 1, 1915: Monthly minimum rate of \$1.25 per month entitling consumer to 500 cubic feet, with an excess charge of 20 cents per 100 cubic feet for amounts over 500 and up to 2,000 cubic feet and 15 cents per 100 cubic feet for amounts in excess of 2,000 cubic feet.

George W. Bush, for Applicant.

N. B. Keys, for Consumers.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

The applicant herein recites that subsequent to a complaint being filed by W. S. Sciever on May 14, 1914, and a public hearing before the Commission, the said applicant in compliance with her promise made during the hearing, has constructed a new pumping plant and well upon her Ocean Heights property at great expense, and is now supplying an adequate and sufficient amount of potable water to all consumers on her public utility water system in Ocean Park Heights district.

A public hearing in this matter was conducted in Los Angeles on October 27, 1914, and subsequently an inspection of the water system

was made by the hydraulic engineer of the Commission. According to testimony in the case, this water system was acquired by the present owner through the purchase of the remaining lots of various subdivisions of land and without separate payment for the water utility property. However, it is established that a considerable improvement of the system was made at the behest of this Commission, and the expenditures appear to me to have been as follows:

| | |
|--|------------|
| Lot at new plant (Exhibit No. 1)----- | \$750 00 |
| Account of H. E. Carse----- | 331 00 |
| Bills for materials, labor, etc., during summer of 1914 (Exhibit No. 2)--- | 1,905 00 |
| Motor (Exhibit No. 1)----- | 270 00 |
| | <hr/> |
| | \$3,256 00 |

Aside from the additions to the plant in the above tabulation the only construction made at the expense of Anna Dell Segno consists of services to new consumers. These have been paid for by the applicants for service at \$19.50. These services have been installed in alleys and consist of connection to the main, an average of ten feet of service pipe and a meter.

According to all records before the Commission \$19.50 exceeds the actual cost to the utility by about \$5.00.

The annual cost of maintenance and operation, judging by exhibits presented by the company, may reasonably be as follows:

| | |
|--|------------|
| Power for operating compressors and pumps----- | \$510 00 |
| Superintendence and labor----- | 720 00 |
| Office employees----- | 300 00 |
| General supplies and repairs----- | 100 00 |
| Taxes----- | 50 00 |
| Transformer rental----- | 50 00 |
| | <hr/> |
| | \$1,730 00 |

Allowing interest on recent improvements, \$3,385.00 at 6 per cent would be \$203.00; depreciation of the entire plant, I will assume at \$500.00, making in all for the annual charges to be received \$2,433.00.

There are at present sixty-nine services and the company received for water delivered during the first ten months of 1914, \$1,353.51, and for a full year will probably receive about \$1,600.00. This has been the result during a year of unsatisfactory water supply which apparently will not recur.

The present rates are \$1.50 per month minimum for 1,000 cubic feet and excess water at 15 cents per 100 cubic feet. A lower minimum rate for water at a higher unit price will probably allow a greater number of months' use without increasing the number of connections. There is evidence that a gradual increase of the number of consumers will continue in this locality. By comparison with other districts near the unit rate is low, and I will recommend changes in the rate accordingly.

There was considerable objection to the quality of the water that has been received by consumers during the period immediately before the hearing in this matter. However, a new pumping plant and connecting main had been installed at the instigation of this Commission, and during the priming of this portion of the system there was unavoidably some admixture of fine particles of soil with the water. Immediately after the hearing an expert of the Commission found that no silt was being pumped and that by flushing dead ends of the system, cleaning the reservoir and raising the outlet from the reservoir, conditions should be made entirely satisfactory. These improvements, it is reported, have been made.

I submit herewith the following form of order:

ORDER.

Anna Dell Segno having made application for an investigation of the value of applicant's plant and establishing just and reasonable rates to be charged for water in Ocean Park Heights district, and a public hearing having been held and the Commission being fully apprised in the premises,

It is hereby found as a fact that the rates hereinafter established are just and reasonable rates to be charged by Anna Dell Segno to consumers from the water system in her ownership and control in Ocean Park Heights district, and basing its order on the foregoing finding of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered, by the Railroad Commission of the State of California, that the rates to be charged by Anna Dell Segno in the Ocean Park Heights district shall be as follows, to wit:

| | |
|---|-----------------------|
| Minimum per month for use, entitling consumer to 500 | |
| cubic feet ----- | \$1 25 |
| Amounts between 500 cubic feet and 2,000 cubic feet per | |
| month ----- | 20 per 100 cubic feet |
| Amounts in excess of 2,000 cubic feet per month----- | 15 per 100 cubic feet |

The foregoing rates shall become effective on and after February 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of January, 1915.

DECISION No. 2066.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA APPROVING CERTAIN AGREEMENTS ENTERED INTO BETWEEN PACIFIC GAS AND ELECTRIC COMPANY AND J. THOMSON, M. R. STRUBLE, L. D. BUTT, J. R. HUFFAKER, J. J. CALLISON, C. J. CALDWELL AND S. M. EDINGTON.

Application No. 1379.

Decided January 13, 1915.

Pacific Gas and Electric Company desiring to establish a special contract rate to a limited number of consumers located near Penryn, California, applies for permission to enter into a contract with such consumers whereby it shall construct a 2,200 volt transmission line to a prescribed point, install the necessary transformers, etc., the consumers to agree to construct the balance of lines necessary to points of consumption and to the payment of a yearly minimum of \$442.00.

Held, Application granted, in connection with which authorization the Commission announces that the schedules of rates as effective for various classes of utilities are established to cover average conditions; that a utility can not expect to eliminate all unprofitable consumers, the burden of such consumers to be carried by the excessively profitable ones; that if a utility desires to eliminate all unprofitable consumers, a revision of rates will be necessary to compensate for the reduced cost of service.

Charles P. Cutten, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application by Pacific Gas and Electric Company for an order approving a certain contract which contains terms and conditions not in accordance with the rates, rules and regulations of Pacific Gas and Electric Company now on file with this Commission.

On July 3, 1914, petitioner entered into a contract with J. Thomson, M. R. Struble, L. D. Butt, J. R. Huffaker, J. J. Callison, C. J. Caldwell and S. M. Edington, property owners residing in the vicinity of Penryn, Placer County, California. This contract recites that the above named persons have requested petitioner to reconstruct and extend a certain 2,200 volt electric transmission line and to build certain main line taps in order to serve them with electric energy, and that the cost of reconstructing and extending the transmission line and main line taps will be approximately \$884.00. Petitioner agrees to reconstruct and extend the 2,200 volt line and the main line taps at its own expense and to furnish and install the transformers, switches and meters required for the delivery of electric energy to each of the consumers. The consumers agree to construct, at their own expense, extensions of the 2,200 volt

line over land owned or controlled by them to the location of their respective residences or other points where the service is to be utilized, and to grant petitioner rights of way for such lines as it may construct in connection with service furnished under this contract. The consumers further agree to pay petitioner at the end of each year during the term of the contract, a sum equal to the difference between the aggregate of all amounts paid by them for electric energy received during the year and \$442.00, which latter sum it is agreed shall be the annual minimum payment to petitioner. The contract is to become effective as soon as it has received the approval of the Railroad Commission.

The evidence shows that the present 2,200 volt line is to be reconstructed by petitioner at an estimated cost of \$527.00; that extensions to this 2,200 volt line are to be made by petitioner at an estimated cost of \$884.00; and that the transformers and meters to be furnished and installed by petitioner will cost about \$544.00. Thus it would seem that the total cost of construction and reconstruction to serve the seven consumers hereinbefore named will be in the neighborhood of \$1,955.00.

No evidence was introduced as to the additional expense to be incurred by the individual consumers for connecting their premises with the lines of petitioner, but on the basis of cost as estimated by petitioner for its tap lines, the total additional expense would be about \$1,150.00.

The connected load to be supplied by petitioner under the terms of the contract is said to be as follows:

| Consumer | Lighting | Power |
|----------------------|------------|--------------|
| J. Thomson ----- | 400 watt | 2 horsepower |
| M. R. Struble ----- | 560 watt | |
| L. D. Butt ----- | 400 watt | 2 horsepower |
| J. R. Huffaker ----- | 240 watt | 2 horsepower |
| J. J. Callison ----- | 400 watt | 2 horsepower |
| C. J. Caldwell ----- | 600 watt | |
| S. M. Edington ----- | 400 watt | |
| Totals ----- | 3,000 watt | 8 horsepower |

The annual gross revenue from the proposed extensions, as estimated by petitioner, will be \$180.00. Not more than \$220.00 per year could be expected from the class of service to be supplied.

From all of the information available, it would seem that the revenue to be derived is insufficient to justify the extension of petitioner's lines to the consumers' premises, and it may be assumed for the present that the guaranteed annual minimum of \$442.00 is reasonable.

In view of the fact that no party to the contract, other than petitioner, appeared at the hearing, and for the reasons hereinbefore stated, I am

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of the opinion that the contract should be allowed to stand, at least until such time as the cost and conditions of service in the vicinity of Penryn shall have been investigated by the Commission.

While I am of the opinion that under the circumstances of this particular case it may not be fair to petitioner to require that this service be undertaken entirely at petitioner's expense, I wish it to be distinctly understood that this Commission does not consider it necessary or possible that each service extension shall be uniformly profitable or that there be no unprofitable extensions. Inasmuch as rates for electric service are made for average conditions, it must be perfectly obvious that, if the rates for a given class of service are as a whole remunerative, these rates must provide for both that business which is more profitable and that which is less profitable than the average. The extremes in either direction undoubtedly include business which is so profitable as almost to warrant a special classification at lower rates and business which is temporarily, at least, an actual burden upon other consumers of the same class. In view of these facts it will be evident that, if all unprofitable business is to be eliminated, the rates which may have been reasonable theretofore must be reduced to compensate for the reduced cost of service.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and the same having been submitted and being now ready for decision,

It is hereby ordered that Pacific Gas and Electric Company be and the same is hereby authorized to serve electric energy to J. Thomson, M. R. Struble, L. D. Butt, J. R. Huffaker, J. J. Callison, C. J. Caldwell and S. M. Edington under the terms and conditions of contract dated July 3, 1914, attached to the petition herein and marked "Exhibit A," provided that except as in said contract otherwise specifically stated the rates, rules and regulations of petitioner on file with this Commission shall apply, in so far as applicable.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of January, 1915.

DECISION No. 2067.

IN THE MATTER OF THE APPLICATION OF MT. WHITNEY POWER AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE FOUR HUNDRED AND EIGHTEEN THOUSAND DOLLARS PAR VALUE OF PREFERRED STOCK AND SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS PAR VALUE OF COMMON STOCK.

Application No. 1394.

Decided January 13, 1915.

Applicant, desiring to exchange its outstanding preferred stock for an issue of common stock and to pay off outstanding notes and current obligations through an issue and sale of its preferred stock to the par value of \$418,000.00, applies and is granted permission to issue \$750,000.00 par value of its common capital stock to be issued in exchange for a like face value of preferred stock and to issue \$418,000.00 par value of its preferred stock to be sold at not less than 95, proceeds to be used to refund notes and other obligations herein listed, with the exception of \$100,000.00 of such proceeds, which amount is to be held in applicant's treasury subject to supplemental order of the Commission pending further investigation into applicant's litigation over a certain dam site, said \$100,000.00 to apply to a note now held by John Hayes Hammond in the sum of \$131,250.00.

F. D. Madison, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

Mt. Whitney Power and Electric Company is engaged in the business of generating and selling electric energy for light and power purposes in Tulare County, and part of the northern portion of Kern County. It distributes electric energy for light and power in and about the cities of Visalia, Tulare, Porterville, Lindsay and Exeter. A large portion of the company's business consists in the sale of power for pumping purposes on the orchards and the farms of Tulare County, particularly in that section of the county which is devoted to the cultivation of citrus fruits.

Petitioner owns and operates three hydroelectric generating stations located on Kaweah River in Tulare County and having a combined capacity of 10,000 horsepower; one hydroelectric generating station located on Tule River in Tulare County, having a capacity of 3,000 horsepower; and one turbo-generator steam generating plant located at Visalia, Tulare County, of 10,000 horsepower capacity. The combined capacity of the four stations is reported by petitioner at 23,000 horsepower.

The company's main office is located in Visalia.

On October 31, 1914, Mt. Whitney Power and Electric Company filed an application with this Commission asking for authority to issue 4,180 shares of its 7 per cent cumulative preferred capital stock of the par value of \$100.00 per share, or a total par value of \$418,000.00. The company asks authority to sell this stock at \$90.00 per share.

The petition alleges that the company has an authorized capital stock of \$5,000,000.00, divided into 50,000 shares of the par value of \$100.00 each; 18,000 of said shares of the aggregate par value of \$1,800,000.00 are preferred stock and 32,000 shares of the aggregate par value of \$3,200,000.00 are common stock. Petitioner reports that 7,500 shares of its preferred stock of the par value of \$750,000.00 and 18,750 shares of its common stock of the par value of \$1,875,000.00 are issued and outstanding.

On December 30, 1914, Mt. Whitney Power and Electric Company filed a supplemental application asking authority to issue 7,500 shares of its common stock of the aggregate par value of \$750,000.00 upon the return to petitioner's treasury of the outstanding 7,500 shares of preferred stock of the par value of \$750,000.00.

The entire issued stock of Mt. Whitney Power and Electric Company of California, with the exception of shares sufficient to qualify directors, is owned by Mt. Whitney Power and Electric Corporation of New York. It will, therefore, be possible for Mt. Whitney Power and Electric Corporation of New York to surrender to petitioner all of the outstanding preferred stock and to take instead a like amount of common stock.

The petition, therefore, may be summarized as follows:

(1) Petition of Mt. Whitney Power and Electric Company to issue 4,180 shares of preferred stock of the par value of \$100.00 per share at \$90.00 per share.

(2) Petition of Mt. Whitney Power and Electric Company to issue 7,500 shares of common stock of the par value of \$100.00 per share in return for the surrender to its treasury of a like amount of preferred stock now outstanding.

A favorable determination of this application would result in an outstanding issue of preferred stock of 4,180 shares of the par value of \$100.00 per share, or a total par value of \$418,000.00, and an outstanding issue of common stock amounting to 26,250 shares of the par value of \$100.00 per share, or a total par value of \$2,625,000.00.

Petitioner's articles of incorporation describe the preferred stock as follows:

"The said eighteen thousand shares of preferred stock shall entitle the holder or holders thereof to receive out of the net earnings, and the company shall be bound to pay, a semiannual cumulative dividend at the rate of, but never exceeding, seven per centum (7%) per annum, before any dividend shall be set apart or paid on the common stock, and after said dividend on the preferred stock all other dividends shall belong to the common stock; and in case of liquidation or dissolution of the corporation before any amount shall be paid to the holders of the common stock, the holders of the preferred stock shall be entitled to be paid the amount paid upon their shares and the dividends accumulated and unpaid thereon, but shall not participate in any surplus assets after paying off the whole of the paid up capital."

In its original application herein, Mt. Whitney Power and Electric Company set forth that it proposed, from the sale of the \$418,000.00 of preferred stock, to realize the sum of \$376,200.00 and to apply this money in the liquidation of its outstanding notes and accounts payable.

Petitioner submitted a detailed inventory of its properties and presented additional exhibits bringing its appraisal as of June 30, 1914, to \$3,367,880.48. This represents the appraisal of applicant's physical properties with a deduction for depreciation.

This Commission's engineering department checked over petitioner's figures and the Commission's auditing department made an investigation of the original cost of the properties. These appraisals have been brought to September 30, 1914. The figures as here given do not represent this Commission's appraisal of these properties but are made up from the company's own appraisal and from the company's books. They cover applicant's physical properties and are in no sense a finding of value by this Commission.

The tabulations thus made give:

| | |
|---|----------------|
| Estimated reproduction cost as per appraisal submitted by company and brought to September 30, 1914----- | \$3,926,264 51 |
| Estimated depreciated reproduction cost on sinking fund basis as of September 30, 1914, based on appraisal submitted by company-- | 3,450,528 51 |
| Estimated depreciated reproduction cost on straight line basis, as of September 30, 1914, based on appraisal submitted by company-- | 3,210,495 51 |
| Book cost as shown by petitioner's books as of September 30, 1914-- | 3,620,752 58 |
| Book cost less accrued depreciation, sinking fund basis, as of September 30, 1914 ----- | 3,182,026 00 |
| Book cost less accrued depreciation, straight line basis, as of September 30, 1914. ----- | 2,960,690 00 |

In the estimated reproduction cost figures the allowance for overhead expenses used in petitioner's appraisal have been retained, although it is possible that an investigation will show that these overhead percentages are higher than those actually incurred.

Petitioner submits the following statement of assets and liabilities as of October 1, 1914:

ASSETS.

| | | |
|--|--------------|----------------|
| Plant | | \$5,577,883 30 |
| Current assets: | | |
| Cash | \$10,290 69 | |
| Notes receivable and accrued interest | 42,624 35 | |
| Customers—Current month | 65,253 50 | |
| Customers—Previous months | 116,622 69 | |
| Miscellaneous accounts receivable | 23,766 40 | |
| Merchandise | 59,605 56 | |
| Capital funds on account of construction | 46,188 87 | |
| Total | | 364,352 06 |
| Prepayments: | | |
| Unexpired insurance | \$3,091 60 | |
| Taxes | 6,870 50 | |
| Suspense | 9,620 61 | |
| Note interest paid | 425 34 | |
| Total | | 20,008 05 |
| Miscellaneous: | | |
| Bond discount | \$204,360 27 | |
| Organization expense miscellaneous | 17,434 66 | |
| Uncompleted work orders | 44,600 51 | |
| Plant deposit | 9,410 95 | |
| Bonds on hand | 20,000 00 | |
| Bond issue | 12,773 96 | |
| Total | | 308,580 35 |
| Total assets | | \$6,270,823 76 |

LIABILITIES.

| | | |
|--|----------------|----------------|
| Capital: | | |
| Common capital stock | \$1,875,000 00 | |
| Preferred capital stock | 750,000 00 | |
| Bonds | 2,553,000 00 | |
| Total | | \$5,178,000 00 |
| Current: | | |
| Notes payable and accrued interest | \$332,642 27 | |
| Accounts payable | 41,577 13 | |
| Pay roll | 2,767 74 | |
| Total | | 376,987 14 |
| Meter deposits | | 3,133 03 |
| Reserves: | | |
| Depreciation | \$442,164 64 | |
| Account loss | 288 14 | |
| General funds on account of construction | 46,188 87 | |
| Total | | 488,641 65 |
| Surplus | | 224,061 94 |
| Total liabilities | | \$6,270,823 76 |

The foregoing statement would seem to indicate that petitioner's outstanding bonds have a face value of \$2,553,000.00. However, \$20,000.00 of these bonds are held in petitioner's treasury. Consequently the net obligation upon petitioner's bonds is \$2,533,000.00.

Petitioner's floating indebtedness as of October 1, 1914, is listed as \$376,987.14, but this amount has been somewhat modified during the last three months.

Petitioner reports a large amount of uncollected accounts. Since filing the balance sheet heretofore set forth, petitioner has written off \$40,000.00 from these overdue accounts.

From petitioner's reports the Commission's accounting department has made the following summaries of petitioner's earnings and expenses:

TABLE I.
Earnings and Expenses.
November 8, 1909, to June 30, 1914.

| | Nov. 8, 1909, to Dec. 31, 1909 | 1910 | 1911 | 1912 | 1913 | 6 months to June 30, 1914 |
|--|---|---------------------|---------------------|---------------------|---------------------|---------------------------------|
| Operating revenue | | \$328,617 21 | \$384,076 22 | \$440,211 20 | \$557,014 88 | \$311,430 92 |
| Operating expenses | | 141,258 20 | 154,889 87 | 217,801 91 | 256,456 51 | 131,582 32 |
| Depreciation | \$6,112 18 | 49,249 60 | 58,626 30 | 67,451 28 | 58,559 34 | 26,225 78 |
| Total operating ex- penses | \$6,112 18 | \$190,507 80 | \$213,516 17 | \$285,253 19 | \$315,012 85 | \$157,808 10 |
| Net operating revenue | \$24,950 98 | \$138,109 41 | \$170,560 05 | \$154,958 01 | \$242,002 03 | \$153,022 82 |
| Miscellaneous rent reve- nue | | | 20 09 | 50 00 | 320 00 | 170 00 |
| Interest revenue | | 9,089 93 | 6,014 69 | 5,320 31 | 29,996 20 | 11,719 53 |
| Jobbing and merchan- dise revenue | | 6,707 24 | 7,528 23 | 8,892 81 | 10,570 08 | 4,448 95 |
| Total income | \$24,950 98 | \$153,906 58 | \$184,122 97 | \$169,391 13 | \$282,888 31 | \$169,931 30 |
| Deductions— | | | | | | |
| Uncollectible bills | \$355 03 | \$2,977 15 | \$3,547 57 | \$4,022 52 | \$5,052 67 | \$2,739 01 |
| Water works loss or gain | | 711 26 | 557 10 | 231 02 | | |
| Interest on funded debt | 3,162 50 | 54,689 17 | 69,504 01 | 85,423 34 | 114,918 35 | 68,245 99 |
| Other interest | 6,767 38 | 17,117 14 | 1,768 36 | 8,441 74 | 23,282 75 | 13,982 33 |
| Amortization of debt discount | 137 31 | 4,564 89 | 5,593 02 | 6,206 97 | 6,927 68 | 3,853 16 |
| Total deductions.. | \$10,422 22 | \$78,637 12 | \$80,965 60 | \$99,415 59 | \$150,181 45 | \$88,820 49 |
| Net income | \$14,528 76 | \$75,269 46 | \$103,157 31 | \$69,975 54 | \$132,706 86 | \$81,140 81 |
| Miscellaneous undistrib- uted adjustments | 210 64 | 5,444 64 | 16,136 27 | 6,816 44 | 31,971 57 | 2,816 99 |
| Dividends on preferred stock | | | | 112,728 75 | 8,773 77 | |
| Totals | \$14,318 12 | \$69,824 82 | \$87,021 04 | \$35,906 77 | \$91,961 52 | \$78,822 82 |

During the course of the hearing petitioner's attention was directed to certain undue expense items in connection with general executive salaries, and to certain disbursements apparently not necessary to its business. It will not be necessary to go into these matters further at this

time, for the reason that a rate investigation has been set down for hearing which will involve in detail all of these matters, and at that time such readjustments as may be deemed proper can be made. I leave this matter at this time in the expectation that petitioner will take steps to either reduce or eliminate these items.

Petitioner operates in a rich and growing section and its business, under normal conditions, should constantly increase. It is in competition in some sections with Tulare County Power Company and San Joaquin Light and Power Corporation. By reason of low water during the year 1912, petitioner was forced to build a large auxiliary steam plant. Its water supply will remain more or less uncertain until it has completed necessary storage arrangements. Such storage arrangements as have been undertaken have been halted by a controversy over water rights.

Petitioner's gross earnings for the year 1913 were derived from the following sources in the proportion indicated:

| | Per cent of total |
|---------------------------|-------------------|
| Residence lighting ----- | 10.67 |
| Commercial lighting ----- | 7.51 |
| Municipal lighting ----- | 2.31 |
| All other lighting ----- | .69 |
| Industrial power ----- | 4.54 |
| Agricultural power ----- | 57.95 |
| All other power ----- | 16.33 |
| Total ----- | 100.00 |

Petitioner has submitted an amended list of the purposes to which it proposes to apply the proceeds from the sale of the preferred stock as follows:

Promissory Notes.

| In whose favor | Date | Amount | Date of maturity | Rate of interest |
|--|---------------|-------------|------------------|--|
| John Hays Hammond ----- | May 15, 1914 | \$13,543 62 | Oct. 15, 1914 | 7 per cent |
| John Hays Hammond ----- | June 1, 1914 | 73,857 34 | Dec. 1, 1914 | 7 per cent |
| John Hays Hammond ----- | June 15, 1914 | 126,511 19 | Dec. 15, 1914 | 7 per cent |
| John Hays Hammond ----- | July 1, 1914 | 20,000 00 | Dec. 1, 1914 | 7 per cent |
| First National Bank of Visalia ----- | June 4, 1913 | 5,000 00 | June 5, 1913 | 7 per cent |
| First National Bank of Visalia ----- | June 5, 1913 | 3,000 00 | June 6, 1913 | 7 per cent |
| First National Bank of Visalia ----- | June 1, 1913 | 5,000 00 | July 2, 1913 | 7 per cent |
| First National Bank of Visalia ----- | Apr. 16, 1914 | 1,500 00 | Apr. 16, 1915 | 7 per cent |
| Anglo and London Paris National Bank ----- | Aug. 7, 1913 | 5,000 00 | Nov. 7, 1913 | 7 per cent |
| Anglo and London Paris National Bank ----- | Aug. 7, 1913 | 5,000 00 | Dec. 7, 1913 | 7 per cent |
| Anglo and London Paris National Bank ----- | Aug. 7, 1913 | 5,000 00 | Jan. 7, 1914 | 7 per cent |
| Louis Sloss & Company ----- | Jan. 6, 1914 | 1,000 00 | Jan. 6, 1915 | 7 per cent |
| Louis Sloss & Company ----- | Feb. 24, 1914 | 2,500 00 | Feb. 24, 1915 | 7 per cent and $1\frac{1}{2}$ per cent commission. |
| Amount due C. C. Moore & Company ----- | | | | \$9,000 00 |
| Interest ----- | | | | 4,143 83 |
| Amount due Blyth, Witter & Company ----- | | | | 15,000 00 |
| Reimbursement for expenditures from income for capital account ----- | | | | 96,331 10 |

I find from the statement of petitioner's earnings that if such earnings continue, it can without trouble pay the dividend upon the preferred stock herein applied for. On December 31, 1911, petitioner paid a dividend of \$112,728.75 on its preferred stock, covering the period from November 8, 1909, to that date, and on June 30, 1914, it paid a dividend upon its preferred stock in the sum of \$131,250.00, representing accrued dividends from December 31, 1911, to June 30, 1914. These dividends for approximately four years and eight months amounted to \$243,978.75.

The control of petitioner, as has been stated, is lodged with Mt. Whitney Power and Electric Corporation of New York, and in turn the control of Mt. Whitney Power and Electric Corporation of New York lies with Mr. John Hays Hammond. Petitioner plans to issue its preferred stock to Mt. Whitney Power and Electric Corporation of New York, and this New York holding company, it is proposed, shall then issue its preferred stock of equal amount.

From the showing made, I recommend that petitioner be granted authority to issue 4,180 shares of its preferred stock. I recommend, however, that the disposition of certain amounts of this preferred stock be held in abeyance until petitioner shall have corrected to the satisfaction of this Commission such matters as have been called to its attention herein.

Petitioner will again be before this Commission in a rate investigation and at that time the Commission will inquire more particularly into certain litigation over water rights which may affect the company's investment of some \$117,000.00 in the Wolverton dam. I shall, therefore, recommend that from the proceeds derived from the sale of the stock, the sum of \$100,000.00 be held in the company's treasury pending further order from this Commission, and I recommend also that this \$100,000.00 so held be made applicable to the discharge of indebtedness now due by the corporation to its controlling interest, Mr. John Hays Hammond.

The present order, therefore, will contemplate the payment by the corporation of its indebtedness due Mr. John Hays Hammond, with the exception of \$100,000.00. This may the more readily be done as the applicant lists four notes due Mr. John Hays Hammond in a total sum of \$233,912.15. As the company, on June 30, 1914, paid a dividend payable almost in its entirety to Mr. John Hays Hammond in the sum of \$131,250.00, it will thus appear that this arrangement may be an equitable one until the final determination of the matters heretofore referred to.

In recommending that the applicant be granted authority to issue 7,500 shares of common stock upon the return to its treasury of 7,500 shares of preferred stock, I have in mind that this is an issue of common stock merely to enable the company to eliminate such preferred stock as is now outstanding. Any authority herein granted to the applicant to issue its common stock is granted solely as a matter of reclassification of stock already outstanding and is not intended as an issue of common stock as of itself, by reason of any value in this common stock. The authorization merely enables petitioner to make common stock of 7,500 shares of preferred stock now outstanding. This is obviously to the advantage of the corporation and to the prospective purchasers of petitioner's preferred stock.

Although petitioner has asked authority to sell its preferred stock at \$90.00 per share, it developed at the hearing that its financial representative believed the stock could be disposed of at \$95.00 per share. Accordingly, the order will so specify. At this price the money obtained will cost petitioner 7.36 per cent per annum.

For the reasons set forth in this opinion, I recommend that the application be granted and submit the following form of order:

ORDER.

Mt. Whitney Power and Electric Company having applied to this Commission for authority to issue 4,180 shares of its 7 per cent cumulative preferred stock of the par value of \$100.00 per share, having a total par value of \$418,000.00, and 7,500 shares of its common stock of the par value of \$100.00 per share, having a total par value of \$750,000.00, and a public hearing having been held and it appearing that the purposes to which petitioner proposes to devote the proceeds from the sale of said stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Mt. Whitney Power and Electric Company be and the same is hereby authorized to issue 4,180 shares of its 7 per cent cumulative preferred stock of the par value of \$100.00 per share and 7,500 shares of its common stock of the par value of \$100.00 per share, on the conditions hereinafter specified and not otherwise.

The authority to issue said \$418,000.00 of 7 per cent cumulative preferred stock is granted upon the following conditions and not otherwise:

(1) Said stock shall be sold so as to net petitioner not less than \$95.00 per share.

(2) The proceeds from the sale of said stock shall be used for the following purposes:

(a) To apply upon the following notes and accounts:

| Promissory Notes. | | | | |
|---|---------------|------------------|---|---------------------|
| In whose favor | Date | Date of maturity | Rate of interest | Amount |
| John Hays Hammond..... | May 15, 1914 | Oct. 15, 1914 | 7 per cent | \$13,743.62 |
| John Hays Hammond..... | June 1, 1914 | Dec. 1, 1914 | 7 per cent | 75,857.34 |
| In part settlement of note due John Hays Hammond of \$126,511.19, dated June 15, 1914, and payable December 15, 1914, interest at 7 per cent per annum..... | | | | 26,511.19 |
| John Hays Hammond..... | July 1, 1914 | Dec. 1, 1914 | 7 per cent | 20,000.00 |
| First National Bank of Visalia..... | June 4, 1913 | June 5, 1913 | 7 per cent | 5,000.00 |
| First National Bank of Visalia..... | June 5, 1913 | June 6, 1913 | 7 per cent | 3,000.00 |
| First National Bank of Visalia..... | July 1, 1913 | July 2, 1913 | 7 per cent | 5,000.00 |
| First National Bank of Visalia..... | Apr. 16, 1914 | Apr. 16, 1915 | 7 per cent | 1,500.00 |
| Anglo and London Paris National Bank..... | Aug. 7, 1913 | Nov. 7, 1913 | 7 per cent | 5,000.00 |
| Anglo and London Paris National Bank..... | Aug. 7, 1913 | Dec. 7, 1913 | 7 per cent | 5,000.00 |
| Anglo and London Paris National Bank..... | Aug. 7, 1913 | Jan. 7, 1914 | 7 per cent | 5,000.00 |
| Louis Sloss & Company..... | Jan. 6, 1914 | Jan. 6, 1915 | 7 per cent and $\frac{1}{2}$ per cent commission .. | 1,000.00 |
| Louis Sloss & Company..... | Feb. 24, 1914 | Feb. 24, 1915 | 7 per cent and $\frac{1}{2}$ per cent commission .. | 2,500.00 |
| Amount due C. C. Moore & Company..... | | | | 9,000.00 |
| Amount due Blyth, Witter & Company..... | | | | 15,000.00 |
| Reimbursement for expenditures from income for capital account..... | | | | 96,931.10 |
| Total | | | | \$287,843.25 |

(b) The sum of \$100,000.00 received from the sale of said stock shall be held in petitioner's treasury, to be applied to such purpose or purposes as shall hereafter by supplemental order be approved by this Commission.

(3) Such sum as shall remain from the sale of petitioner's preferred stock shall be held in petitioner's treasury and shall be used thereafter either for additions and betterments or for the liquidation of indebtedness upon supplemental order from this Commission.

(4) Said 4,180 shares of preferred stock herein authorized to be issued shall be issued only after the present outstanding issue of 7,500 shares of preferred stock shall have been returned to petitioner's treasury and cancelled.

The authority to issue said 7,500 shares of common stock is granted upon the following conditions and not otherwise:

(1) Said 7,500 shares of common stock shall be issued only after 7,500 shares of preferred stock shall have been returned to petitioner's treasury and cancelled.

(2) The authority herein granted to petitioner to issue said 7,500 shares of common stock shall not be interpreted or construed otherwise than as a grant of permission from this Commission to applicant in

practical effect to reclassify stock heretofore outstanding, entailing in no degree a recognition of any value or values in said common stock.

The authority to issue both preferred and common stock is granted on the following additional conditions and not otherwise:

(1) Mt. Whitney Power and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(2) The authority herein granted shall apply only to such stock as shall have been issued on or before December 31, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of January, 1915.

DECISION No. 2068.

CHARLES ALBERT

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 740.

Decided January 13, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Charles Albert, complainant herein, having made written request to the Railroad Commission that the complaint entitled as above be dismissed,

It is hereby ordered that this matter be and it is hereby dismissed without prejudice.

Dated at San Francisco, this 13th day of January, 1915.

DECISION No. 2069.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF SAN FRANCISCO, OAKLAND AND SAN JOSE RAILWAY.

Case No. 146.

Decided January 11, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered by Case No. 321, being a similar proceeding to ascertain the value of the property of San Francisco-Oakland Terminal Railways.

It is hereby ordered that this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 14th day of January, 1915.

DECISION No. 2070.

IN THE MATTER OF THE APPLICATION OF INTERSTATE TELEGRAPH
COMPANY FOR AN ORDER AUTHORIZING AND PERMITTING THE
ESTABLISHMENT AND MAINTENANCE OF TELEPHONE RATES AT
VICTORVILLE AND ORO GRANDE, IN THE COUNTY OF SAN BERNAR-
DINO, CALIFORNIA.

Application No. 124.

Decided January 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that the subject of this application is not one which requires a formal proceeding and that the matter has been entirely adjusted without the necessity of any formal proceeding,

It is hereby ordered that this application be and the same is hereby dismissed.

By order of the Railroad Commission.

Dated at San Francisco, California, this 15th day of January, 1915.

Decision No. 2071, grade crossing; not printed. See end of volume.

DECISION No. 2072.

IN THE MATTER OF THE APPLICATION OF WELLS FARGO AND COMPANY FOR INSTRUCTIONS AND RELIEF CONCERNING THE SHIPMENT OF SPIRITUOUS LIQUORS TO AND DELIVERY THEREOF IN THE TOWN OF LOS GATOS.

Application No. 236.

Decided January 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that the subject of this application has been informally adjusted,

It is hereby ordered that this application be and the same is hereby dismissed.

By order of the Railroad Commission.

Dated at San Francisco, California, this 15th day of January, 1915.

DECISION No. 2073.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING IT TO DISCONTINUE ALL IRREGULAR AND DISCRIMINATORY EXCHANGE RATES AND TO APPLY TO ALL SUBSCRIBERS THE STANDARD RATES IN EFFECT AT ITS VARIOUS EXCHANGES ON OCTOBER 10, 1911.

Application No. 240.

Decided January 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that the subject of this application has been entirely taken care of by the orders of this Commission made in Case No. 293, in the matter of the application of various public utilities for permission to charge less than published schedule of rates in certain classes of cases,

It is hereby ordered that the above entitled application be and the same is hereby dismissed.

By order of the Railroad Commission.

Dated at San Francisco, California, this 15th day of January, 1915.

DECISION No. 2074.

IN THE MATTER OF THE APPLICATION OF J. H. EVANS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 258.

Decided January 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that the subject of this application was entirely adjusted in the order of the Commission heretofore made on June 6, 1913, in Application No. 434, being application of The Pacific Telephone and Telegraph Company for permission to withdraw from certain territory, and J. H. Evans to construct, operate and maintain a telephone system in said territory,

It is hereby ordered that the above entitled application be and the same is hereby dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 15th day of January, 1915.

DECISION No. 2075.

IN THE MATTER OF THE APPLICATION OF ESCONDIDO LIGHT AND POWER COMPANY FOR AUTHORITY TO ISSUE ITS CAPITAL STOCK.

Application No. 334.

Decided January 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that applicant does not desire to proceed further with this application,

It is hereby ordered that this application be and the same is hereby dismissed.

By order of the Railroad Commission.

Dated at San Francisco, California, this 15th day of January, 1915.

DECISION No. 2076.

OAK KNOLL DISTRICT IMPROVEMENT ASSOCIATION

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 649.

Decided January 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Oak Knoll District Improvement Association, complainant herein, having made written request to the Railroad Commission that the complaint entitled as above be dismissed,

It is hereby ordered that this matter be and it is hereby dismissed without prejudice.

Dated at San Francisco, this 15th day of January, 1915.

DECISION No. 2077.

PERCY I. GOLDSTEIN

vs.

PEOPLES WATER COMPANY.

Case No. 685.

Decided January 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Percy I. Goldstein, complainant herein, having made written request to the Railroad Commission that the complaint entitled as above be dismissed,

It is hereby ordered that this matter be and it is hereby dismissed without prejudice.

Dated at San Francisco, this 15th day of January, 1915.

DECISION No. 2078.

IN THE MATTER OF THE APPLICATION OF FRESNO INTERURBAN
RAILWAY COMPANY FOR AUTHORITY TO ISSUE STOCKS AND
BONDS.

Application No. 1084.

Decided January 15, 1915.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

AMENDMENT TO FOURTH SUPPLEMENTAL ORDER.

This Commission having issued its fourth supplemental order in the above entitled matter on December 8, 1914, Decision No. 1990, and said order having provided for the issue of 100 shares of applicant's capital stock of the par value of \$100.00 per share at a price that should yield the applicant not less than \$80.00 per share;

And it having been provided as follows, as Condition No. 3 of said order:

“3. The proceeds from the sale of the stock herein authorized to be issued shall be used by the applicant as follows:

(a) For the purchase of equipment, \$4,700.00.

(b) For the payment of engineering, administration, legal and contingent costs in such amount as may be available.”

And it now appearing to this Commission as set forth in its fifth supplemental opinion and order in the above entitled matter, to which reference is hereby made, that no authorization should be given at this time for the issue of securities for engineering, administration, legal and contingent costs heretofore submitted by this applicant,

It is hereby ordered that Condition No. 3 of the fourth supplemental order in the above entitled matter be and it is hereby amended to read as follows:

“3. The proceeds from the sale of the stock herein authorized to be issued shall be used by the applicant as follows:

(a) For the purchase of equipment, \$4,700.00.

(b) For the payment of engineering, administration, legal and contingent costs when such costs or estimates of costs shall have been specifically approved in a supplemental order by this Commission.”

The foregoing amendment to fourth supplemental order is hereby approved and ordered filed as the amendment to fourth supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of January, 1915.

DECISION No. 2079.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS
COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE NOTES.

Application No. 1198.*Decided January 15, 1915.*

Applicant having previously been granted permission to issue \$240,500.00 three year gold notes and now desiring to pledge a number of such notes as security for certain promissory notes, it is accordingly authorized to pledge \$65,000.00 face value of such notes to secure three promissory notes aggregating the sum of \$42,812.15, and it appearing that the balance of promissory notes desired to be issued by applicant amounting to \$12,057.49, are for purposes not properly capitalizable, such portion of application denied.

Mountford S. Wilson, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

FOURTH SUPPLEMENTAL OPINION.

On July 18, 1914, this Commission issued its order in the above entitled matter (Decision No. 1675) authorizing the applicant to issue and sell \$240,500.00 of its three year 6 per cent gold notes. In a supplemental order this Commission approved a proposed trust deed by which these gold notes were to be secured. On November 17, 1914, Southern Counties Gas Company filed an application requesting a supplemental order permitting it to pledge certain of these three year 6 per cent gold notes as security for certain promissory notes. Thereafter, on December 17, 1914, the applicant filed an amendment to its supplemental application. On December 31, 1914, a hearing was held upon the supplemental application and the amendment thereto. It is this matter which is now before the Commission for determination.

The applicant asks for authority to pledge a portion of the \$240,500.00 face value of three year 6 per cent gold notes heretofore authorized as security for certain promissory notes. It asks for authority from this Commission as follows:

(a) To pledge \$35,000.00 of its three year 6 per cent gold notes as collateral security for a note in the sum of \$25,775.56 to the California National Supply Company.

(b) To pledge \$20,000.00 of its three year 6 per cent gold notes as collateral security for a note in the sum of \$12,036.59 to Dan Murphy and Richard J. Dillon.

(c) To pledge in the ratio of 100 to 75, sufficient of its three year 6 per cent gold notes as collateral security for a note to Union Oil Company in the sum of \$5,057.49.

(d) To pledge in the ratio of 100 to 75, sufficient of its three year 6 per cent gold notes as security for a note to Wilson & Wilson, attorneys, in the sum of \$2,000.00.

(e) To pledge at the ratio of 100 to 75, sufficient of its three year 6 per cent gold notes as security for a note to be issued to a payee not yet specified, in the sum of \$5,000.00.

(f) To pledge \$10,000.00 of its 6 per cent three year gold notes as collateral security for a note in the sum of \$5,000.00 to Farmers and Merchants National Bank of Baltimore.

The note to the California National Supply Company was given for pipe, etc., used in the construction of a line from the Olinda natural gas field. The note to Dan Murphy and Richard A. Dillon represents a consideration for advances by them for the construction of a pipe line from the natural gas field in Coyote Hills to Fullerton, said line being four and one fourth miles in length.

I recommend that the application be granted for the pledge of bonds in the amounts named, for the indebtedness stated to the California National Supply Company and to Dan Murphy and Richard A. Dillon.

The items specified as due Union Oil Company and Wilson & Wilson, and represented by a proposed note of \$5,000.00 to an unnamed payee, appear to be operating expenses. The sum represented by these three items amounts to \$12,057.49. I do not believe this Commission should authorize that notes be pledged for this indebtedness. In this connection I call attention to the fact that dividends were paid by this applicant during 1912 and 1913 in the sum of \$20,000.00.

Applicant is now introducing natural gas into its system, and during the change from the artificial gas basis to the natural gas basis, a certain falling off in revenue is inevitable. I believe the company, by some other means, as, for instance, through its stockholders who have received this dividend of \$20,000.00, might more properly, for the present at least, finance this indebtedness in the sum of \$12,057.49.

It appeared in testimony that the applicant had already pledged its three year 6 per cent gold notes in the sum of \$10,000.00 as collateral security for a note to Farmers and Merchants National Bank of Baltimore in the sum of \$5,000.00 and that it had pledged these notes without the authority of this Commission.

It is not my belief that this Commission should appear to quibble over a matter that may not in itself be of very great consequence, but it is also my belief that this Commission should and must insist upon a full and complete compliance with the provisions of the Public Utilities Act. While in the present instance, therefore, I shall not recommend that any of the penal provisions of the statutes be invoked, I think it is well that the public utilities, generally, should be informed that this

Commission will not be inclined to deal lightly with even these smaller infractions of the statute.

For the reasons set forth above, I recommend that the application be granted in part and in part denied.

I submit the following form of order:

FOURTH SUPPLEMENTAL ORDER.

Southern Counties Gas Company of California having applied to this Commission for authority to pledge certain of its three year 6 per cent gold notes as collateral security for certain promissory notes;

And a hearing having been held and it appearing that the purposes for which it is herein proposed to pledge \$65,000.00 of said three year 6 per cent gold notes are not in whole or in part reasonably chargeable to operating expenses, or to income,

It is hereby ordered that Southern Counties Gas Company of California be granted authority and it is hereby granted authority to pledge \$65,000.00 of its three year 6 per cent gold notes as collateral security for certain promissory notes as follows:

| | |
|---|-------------|
| \$35,000 of said three year 6 per cent gold notes as collateral security for a note to California National Supply Company in the sum of | \$25,775 56 |
| \$20,000 of said three year 6 per cent notes as collateral security for a note to Dan Murphy and Richard J. Dillon in the sum of | 12,036 59 |
| \$10,000 of said three year 6 per cent gold notes as collateral security for a note to Farmers and Merchants National Bank of Baltimore in the sum of ----- | 5,000 00 |

It is further ordered that the application herein made to pledge an additional amount of applicant's three year 6 per cent gold notes be and the same is hereby denied.

The authority herein granted to pledge said \$65,000.00 of three year 6 per cent gold notes is granted upon the following conditions and not otherwise:

(1) The applicant shall report on the twenty-fifth day of every month for the months preceding the note or notes herein pledged, in accordance with the provisions of this order.

(2) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

(3) The authority herein granted shall apply only to such note or notes as shall have been issued on or before June 30, 1915.

(4) The three year 6 per cent gold notes herein authorized to be pledged are authorized for specific purposes only, and after the notes, as security for which they shall have been pledged, have been paid, the three year 6 per cent notes shall be returned to the applicant's treasury and issued thereafter only as shall be authorized by this Commission.

The foregoing opinion and fourth supplemental order are hereby approved and ordered filed as the opinion and fourth supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of January, 1915.

Decision No. 2080, grade crossing; not printed. See end of volume.

DECISION No. 2081.

IN THE MATTER OF THE APPLICATION OF C. H. L. GHRIEST AND C. H. L. GHRIEST, JR., FOR A CERTIFICATE DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF FRANCHISE RIGHTS.

Application No. 1448.

Decided January 15, 1915.

REPORT OF THE COMMISSION.

C. H. L. Ghriest and C. H. L. Ghriest, Jr., having applied to this Commission for a certificate declaring that public convenience and necessity require the exercise of the rights and privileges granted applicants by the city of Banning, Riverside County, California, in Ordinance No. 56, passed and adopted on August 21, 1914, granting to applicants the right to erect and construct an electric distribution system within said city; and the Southern Sierras Power Company, which is the only utility of like character serving electric energy within this territory, having advised the Commission that it has no objection to the granting of the present application, and it appearing to the Commission that the application should be granted, and that this is not a case in which a public hearing is necessary,

It is hereby declared that public convenience and necessity require the exercise by C. H. L. Ghriest and C. H. L. Ghriest, Jr., of the rights and privileges granted to them in Ordinance No. 56 of the city of Banning, California.

Dated at San Francisco, California, this 15th day of January, 1915.

Decision No. 2082, grade crossing; not printed. See end of volume.

DECISION No. 2083.

IN THE MATTER OF THE APPLICATION OF FRESNO INTERURBAN RAILWAY COMPANY FOR AUTHORITY TO ISSUE STOCK AND BONDS.

Application No. 1084.

Decided January 15, 1915.

Applicant, having been previously authorized to issue an amount of stock and bonds sufficient to construct its proposed line of railway between Clovis and Fresno, now applies for a supplemental order authorizing an additional issue of 20 shares of stock of the par value of \$100.00 per share and \$14,700.00 face value of bonds, the proceeds of such issues to cover cost of new equipment and administration, engineering, etc., expenses during construction, and it appearing that

such items have been properly taken care of in the original authorization and that an additional issue of securities covering these items is not necessary at the present time, application denied.

J. B. Rogers, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

FIFTH SUPPLEMENTAL OPINION.

The applicant herein is constructing a standard gauge electric line of railway between Fresno and Clovis, Fresno County, a distance of approximately nine miles. A contract was entered into between the applicant and Mahoney Brothers for the completion of this railway line at a total cost of \$145,000.00. In orders heretofore issued up to November 5, 1914, this Commission had authorized the applicant to issue \$110,000.00 of its first mortgage 6 per cent ten year bonds to be sold at not less than 90 per cent of face value, and 580 shares of its capital stock of the par value of \$100.00 per share to be sold at not less than \$80.00 per share. If sold at this minimum price the result would have been as follows:

| | |
|--|---------------------|
| \$110,000.00 bonds at 90 per cent..... | \$99,000 00 |
| 580 shares of stock at \$80.00..... | 46,400 00 |
| Total amount to be realized..... | <u>\$145,400 00</u> |

This exceeded the contract price for the road by \$400.00. The applicant, however, subsequently set forth the necessity of additional expenditures and thereafter applied to this Commission on November 5, 1914, for authority to issue, in addition to the securities heretofore authorized, 20 shares of its capital stock to be sold at \$80.00 per share and \$14,700.00 of its bonds to be sold at 90 per cent of face value.

A hearing was held upon this application, and in connection with data filed it came to the attention of this Commission that the applicant had issued for the purposes of incorporation, 100 shares of its capital stock and had received therefor \$10.00 per share. Thereupon, in Decision No. 1990, rendered December 8, 1914, this Commission, in lieu of the 20 shares of stock and the \$14,700.00 of bonds applied for, authorized the applicant to issue 100 shares of stock at not less than \$80.00 per share to replace the 100 shares of stock which had been sold at \$10.00 per share. The effect of this would have been to give the applicant an additional \$7,000.00 with which to meet its contemplated expenditures. These intended expenditures consisted of \$4,700.00 for the purchase of equipment and \$10,000.00 for engineering, administration, legal and contingent costs.

Under date of December 12, 1914, Fresno Interurban Railway Company filed a supplemental application requesting that this Commission's order (Decision No. 1990) authorizing 100 shares of stock to replace the shares issued for purposes of incorporation be vacated, and requesting again that authority be granted to the applicant to issue \$14,700.00 of its ten year 6 per cent bonds to be sold at 90 per cent of face value and 20 shares of its capital stock to be sold at \$80.00 per share.

It was proposed that the proceeds from the sale of these securities should be used for the purpose of purchasing equipment to cost \$4,700.00 and for the payment of certain administration, engineering, legal and contingent costs set out in detail in the sum of \$12,300.00. There is evident need for the equipment and I pass, therefore, to a consideration of other items.

The applicant submits the following summary of proposed expenditures:

Administration—

| | | |
|-------------------------------|---------|----------|
| San Francisco office ----- | \$37 50 | |
| Fresno office ----- | 12 50 | |
| Accountant ----- | 75 00 | |
| Stenographer ----- | 30 00 | |
| Stationery, stamps, etc.----- | 15 00 | |
| President ----- | 200 00 | |
| | <hr/> | \$370 00 |

Legal—

| | | |
|---------------------------|-------|-------|
| Retention fee ----- | 40 00 | |
| Sundry filings, etc.----- | 15 00 | |
| | <hr/> | 55 00 |

Engineering—

| | | |
|----------------------------|--------|--------|
| Chief engineer ----- | 200 00 | |
| Electrical engineer ----- | 75 00 | |
| Field assistants ----- | 200 00 | |
| Livery and sustenance----- | 150 00 | |
| Traveling expenses ----- | 100 00 | |
| Sundry materials ----- | 25 00 | |
| | <hr/> | 750 00 |

Total estimated monthly expense----- \$1,175 00

Total for eight months construction period----- \$9,400 00

Contingent—

| | |
|--|----------|
| To provide for possible unforeseen contingent expense not contemplated in contract, such as additional industrial trackage, the possible crossing of Southern Pacific Company's tract, at or near Clovis, etc., say 2 per cent of contract price ----- | 2,900 00 |
|--|----------|

Total ----- \$12,300 00

It appears to me that in view of the contract which this applicant has with Mahoney Brothers, previously approved by this Commission, there is no necessity for administration, legal and engineering expenditures as

herein presented. Contingent expense, of course, must be met if it occurs.

An examination of the items submitted by the applicant disclosed that Mr. J. B. Rogers is to be paid a salary of \$200.00 per month as president of this railway. In addition, it is proposed that he receive a salary of \$200.00 per month as chief engineer of the railway. It is also proposed that he receive a salary of \$40.00 per month as attorney for the railway. It is further intended that he should receive an allowance of \$100.00 per month for traveling expenses. This makes a total of \$540.00 per month to continue over a period of eight months and to be charged to the construction cost of this railway. I find that many items such as livery and sustenance would be payable on behalf of Mr. J. B. Rogers.

The Commission has previously authorized the issue of securities in connection with this project to Mr. Rogers as follows:

| | |
|---|--------------------|
| Salary as engineer at \$600.00 per month for 10 months----- | \$6,000 00 |
| Traveling expenses in the sum of ----- | 2,176 90 |
| Percentage of promotion fees amounting to----- | 4,163 33 |
| Total ----- | \$12,340 23 |

Other general expense items have also been authorized on behalf of Mr. J. B. Rogers. Liberal promotion allowances have also been made on behalf of others connected with this enterprise.

It is now proposed that the Commission should authorize additional compensation and expenses for Mr. Rogers in a sum between \$6,000.00 and \$7,000.00. This Commission has always been willing and ready to recognize promotion effort, but it can not go to the extremes herein requested. A promotion charge can not be converted into something else by a mere change of nomenclature.

As this Commission has previously given its authorization for stock sufficient to cover the cost of the equipment which the applicant now desires to acquire, further issues of securities will, of course, not be necessary for this same purpose. To this extent at least—that is, to the extent of providing for an issue of securities sufficient to cover the cost of this equipment in the sum of \$4,700.00—I believe Decision No. 1990 of this Commission should stand.

As to the other purposes for which stock and bonds are herein requested covering administration, legal, engineering and contingent costs, I am of the opinion that a very large proportion represents intended payments for the account of Mr. J. B. Rogers that should not be sanctioned by this Commission. As has been previously stated, such contingent expense as may arise must be met, but it need not be anticipated at this time. I am, therefore, of the opinion that this supplemental application should be denied.

The applicant also requests that this Commission vacate its fourth supplemental order in this proceeding in which 100 shares of stock were authorized to be sold at not less than \$80.00 per share to replace 100 shares of stock issued at the time of incorporation at \$10.00 per share. This request will be denied, but I shall recommend that the order referred to be amended so that no stock shall be issued against engineering, administration, legal and contingent costs upon the showing so far made.

Under an agreement between Mahoney Brothers, contractors, and Fresno Interurban Railway, Mahoney Brothers have accepted the securities of the applicant in payment for services in building the line. It appears that at the time of the last hearing upon this matter, the applicant had issued a portion of the bonds authorized, but had issued none of the stock authorized by this Commission. It was the intention of the Commission that these securities should be issued together so that at any time the face value of the bonds outstanding should be not more than approximately twice the face value of the stock outstanding.

The applicant, therefore, should issue no more bonds until it shall have issued stock equal to 50 per cent in par value of the bonds outstanding and should thereafter issue its bonds and stock in proportion of approximately \$2.00 face value of bonds to \$1.00 par value of stock.

Accordingly I submit the following form of order:

ORDER.

Fresno Interurban Railway Company having made application to this Commission under date of December 12, 1914, asking for authorization to issue 20 shares of its capital stock to be sold at \$80.00 per share and \$14,700.00 of its ten year 6 per cent bonds to be sold at 90 per cent of face value for the purpose of providing funds for the purchase of equipment and for the payment of certain engineering, administration, legal and contingent costs, and a hearing having been held,

It is hereby ordered for the reasons set forth in the preceding opinion that this application be and the same is hereby denied.

The foregoing fifth supplemental opinion and order are hereby approved and ordered filed as the fifth supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of January, 1915.

Decision No. 2084, grade crossing; not printed. See end of volume.

DECISION No. 2085.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY FOR AN ORDER TO RENEW A NOTE OF FIFTEEN THOUSAND DOLLARS TO THE BANK OF CALIFORNIA.

Application No. 1479.

Decided January 18, 1915.

S. Waldo Coleman, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

Coast Counties Gas and Electric Company having applied to this Commission for authority to issue a note in the sum of \$15,000.00 to the Bank of California National Association to refund a note of like amount to the same payee, which will mature on January 24, 1915;

And a hearing having been held and it appearing that the purposes for which it is proposed to issue said note in the sum of \$15,000.00 are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Coast Counties Gas and Electric Company be granted authority and it is hereby granted authority to issue a promissory note in the sum of \$15,000.00 to the Bank of California National Association, said note to mature not later than six months from the date of issue and to bear interest at a rate not exceeding 6 per cent per annum.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The note herein authorized to be issued shall be used to refund a note in the sum of \$15,000.00 to Bank of California National Association, maturing January 24, 1915.

(2) The applicant shall report within thirty days after the note herein authorized to be issued shall have been issued, stating that such note has been issued.

(3) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

(4) The authority herein granted shall apply to such note as shall have been issued on or before June 30, 1915.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of January, 1915.

Decision No. 2086, grade crossing; not printed. See end of volume.

DECISION No. 2087.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS TO THE FACE VALUE OF FIVE MILLION DOLLARS, AND ITS FIRST PREFERRED STOCK TO THE PAR VALUE OF TWELVE MILLION FIVE HUNDRED THOUSAND DOLLARS.

Application No. 1188.

Decided January 20, 1915.

Supplemental order granting applicant permission to issue and sell at not less than 85, \$5,000,000.00 face value of its general and refunding mortgage bonds, the proceeds thereof to be used partly to refund treasury for capital expenditures heretofore made, to refund certain 6 per cent gold notes authorized by the Commission and for other purposes properly capitalizable when such amounts have been specified and approved by the Commission.

Charles P. Cutten, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

FIRST SUPPLEMENTAL OPINION.

In its Decision No. 1632, rendered on June 30, 1914, in the above entitled application, this Commission authorized Pacific Gas and Electric Company to issue \$5,000,000.00, face value, of principal of its general and refunding mortgage gold bonds, being 5,000 bonds of Series A, No. M25431 to 30430, inclusive, maturing on the first day of January, 1942, and bearing interest at the rate of 5 per cent per annum, on condition that the bonds should not be issued until Pacific Gas and Electric Company should have secured from this Commission a supplemental order specifying the minimum price at which they may be sold, and on the further condition that the time limit for the issue of the bonds would be specified when the supplemental order authorizing their issue is made.

Pacific Gas and Electric Company has now filed its supplemental application asking that an order be issued authorizing the sale of these bonds at 85 per cent of their face value and the use of the proceeds for the purposes specified in the order herein.

A public hearing on this application was held in San Francisco on January 14, 1915.

I find that the purposes for which it is proposed to issue these bonds are not in whole or in part reasonably chargeable to operating expenses or to income, and recommend that the supplemental application be granted.

I submit herewith the following form of first supplemental order:

FIRST SUPPLEMENTAL ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission of the State of California for a supplemental order authorizing the issue of its general and refunding mortgage gold bonds, of the face value of \$5,000,000.00, and a public hearing having been held on said application, and the Railroad Commission finding that the purposes for which the proceeds of said bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Railroad Commission hereby authorizes the issue by Pacific Gas and Electric Company of five million dollars (\$5,000,000.00), face value, of principal of its general and refunding mortgage gold bonds, being five thousand (5,000) bonds of Series A, No. M25431 to 30430, inclusive, maturing on the first day of January, 1942, bearing interest at the rate of five (5) per cent per annum, payable semiannually, under and in pursuance of the terms of the mortgage or deed of trust heretofore and on the first day of December, 1911, made and executed by said Pacific Gas and Electric Company to Bankers' Trust Company of New York, corporate trustee, and Frank B. Anderson, of San Francisco, individual trustee, on the following conditions and not otherwise, to wit:

1. Pacific Gas and Electric Company shall issue said bonds so as to net said company not less than eighty-five (85) per cent of their face value plus accrued interest.

2. Pacific Gas and Electric Company shall use the proceeds from the sale of said bonds only for the following purposes:

(a) To discharge and refund its six (6) per cent gold notes authorized by this Commission's decision of even date in Application No. 1480, proceeds not to exceed four million dollars (\$4,000,000.00).

(b) To discharge and refund obligations incurred and reimburse its treasury for the acquisition of property and for the construction, completion, extension and improvement of its facilities, as shown on pages 15 and 16 of Exhibit "A" attached to the original petition herein, proceeds not to exceed four million five hundred eighty-six thousand and six hundred and sixty-one dollars (\$4,586,661.00).

(c) For other purposes properly capitalizable, as specified in section 52 of the Public Utilities Act, when applicant shall have specified such purposes and the amounts claimed for each and shall have secured from the Railroad Commission a supplemental order authorizing such expenditure of the balance of the proceeds.

3. Pacific Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and

on or before the twenty-fifth day of each month, shall make verified reports to the Railroad Commission, stating the sale of bonds during the previous month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. The authority hereby given shall not become effective until applicant has paid the fee specified in section 57 of the Public Utilities Act.

5. The authority hereby given shall apply only to such bonds as have been issued on or before the first day of January, 1916.

The foregoing first supplemental opinion and order are hereby approved and ordered filed as the first supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of January, 1915.

Decision No. 2088, grade crossing; not printed. See end of volume.

DECISION No. 2089.

IN THE MATTER OF THE APPLICATION OF HUMBOLDT TRANSIT COMPANY FOR AUTHORITY TO ISSUE AND PLEDGE EIGHTEEN THOUSAND DOLLARS OF ITS FIRST MORTGAGE FIVE PER CENT SINKING FUND THIRTY YEAR GOLD BONDS TO THE PACIFIC COAST CASUALTY COMPANY AS COLLATERAL SECURITY.

Application No. 1491.

Decided January 20, 1915.

Humboldt Transit Company authorized to issue and pledge as security for a bond necessitated through court proceedings, \$18,000.00 of its bonds, such bonds to be returned to applicant's treasury upon the termination of such suit.

Carter P. Pomroy, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application by Humboldt Transit Company, operating a street railway system in Eureka, Humboldt County, for authority to pledge \$18,000.00 of its first mortgage 5 per cent bonds with the Pacific Coast Casualty Company as collateral security. It is the purpose to pledge these bonds in order to indemnify the surety company for a bond which it will furnish to the applicant.

The applicant states that on or about December 9, 1914, in an action then pending in the superior court of the county of Humboldt entitled "*Valentine Grossetti, plaintiff, vs. Humboldt Transit Company, a corporation, defendant,*" the superior court rendered its judgment against the Humboldt Transit Company in the sum of \$7,000.00 and \$187.85

costs. The applicant represents that it desires to appeal to the supreme court of the state to stay the execution of the judgment, and in order to effect said stay it is necessary to give and execute a written undertaking, with sufficient sureties, in double the amount named in the judgment. The applicant states further that the Pacific Coast Casualty Company will execute a proper bond in the sum of \$14,375.70 on condition that the applicant pledge with it as security therefor \$18,000.00 of its first mortgage 5 per cent sinking fund thirty year gold bonds.

Applicant stated that if the judgment be affirmed, the amount necessary to satisfy such judgment will be paid by the stockholders of such corporation and the bonds returned to the treasury. In any event, it is stated, the bonds are merely to be hypothecated temporarily and are to be returned to applicant's treasury.

Under all the circumstances in this case, I recommend that the application be granted and submit the following form of order:

ORDER.

Humboldt Transit Company having applied to this Commission for authority to issue and pledge \$18,000.00 of its first mortgage 5 per cent sinking fund thirty year gold bonds to the Pacific Coast Casualty Company, as outlined in the opinion herein, and a hearing having been held,

It is hereby ordered that Humboldt Transit Company be given authority and it is hereby given authority to issue and pledge \$18,000.00 of its first mortgage 5 per cent sinking fund thirty year gold bonds to the Pacific Coast Casualty Company; said bonds to be numbered 257 to 274, both numbers inclusive.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The bonds herein authorized to be pledged shall be pledged to the Pacific Coast Casualty Company only for the purpose of indemnifying said surety company for a bond to be furnished by said surety company to be filed with the superior court of Humboldt County, to stay execution of the judgment in the action entitled "*Valentine Grossetti, plaintiff, vs. Humboldt Transit Company, a corporation, defendant.*"

2. Humboldt Transit Company shall within ten days file a statement in writing with this Commission that when the damage case heretofore referred to in section 1 of the order herein shall have been decided by the supreme court of the State of California, it will take necessary steps to satisfy such judgment, if the judgment be adverse to the applicant herein, and will thereupon obtain release of the bonds herein authorized to be pledged, and return said bonds to its treasury.

3. The authority herein given shall apply to such bonds as shall have been pledged to the Pacific Coast Casualty Company on or before December 31, 1915.

4. The authority herein given is conditioned upon the payment by the applicant of the fee prescribed in the Public Utilities Act.

5. The applicant herein shall report within thirty days such action as it shall have taken under the order herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of January, 1915.

DECISION No. 2090.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING IT TO ISSUE ITS FIVE PER CENT GOLD NOTES TO THE AGGREGATE FACE AMOUNT OF FOUR MILLION DOLLARS; TO EXECUTE A TRUST AGREEMENT TO SECURE THE PAYMENT OF SAID NOTES; TO PLEDGE ITS GENERAL LIEN BONDS TO THE PAR VALUE OF FIVE MILLION DOLLARS AND ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS TO THE PAR VALUE OF FIVE MILLION DOLLARS AS COLLATERAL SECURITY FOR SAID GOLD NOTES.

Application No. 1480.

Decided January 20, 1915.

Applicant having issued \$7,000,000.00 face value of its gold notes and intending to take up \$3,000,000.00 face value thereof, with proceeds of the sale of an authorized issue of preferred stock, applies for and is granted permission to issue \$4,000,000.00 face value of gold notes to refund a like amount of the previous issue remaining, to execute a trust agreement securing same, and to pledge \$10,000,000.00 face value of its bonds as security therefor.

C. P. Cutten, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application by Pacific Gas and Electric Company for authority as follows:

(1) To issue \$4,000,000.00 of one year 5 per cent gold notes to be dated December 15, 1914, and to mature December 15, 1915.

(2) To execute to F. N. B. Close, of New Jersey, as trustee, a trust agreement to secure said issue of \$4,000,000.00 of notes.

(3) To issue and pledge \$5,000,000.00 of applicant's convertible general lien bonds as collateral security for said \$4,000,000.00 of 5 per cent one year gold notes.

(4) To issue and pledge \$5,000,000.00 of applicant's general and refunding mortgage bonds as collateral security for said \$4,000,000.00 5 per cent one year gold notes.

This Commission has heretofore given authority to the applicant to issue \$7,000,000.00 of one year gold notes, and under such authorization the applicant issued and sold an issue of \$7,000,000.00 of one year notes dated March 25, 1914. This Commission has heretofore also authorized applicant to sell \$12,500,000.00 of its first preferred stock. It was provided in these authorizations that a portion of the proceeds derived from the sale of this preferred stock should be used to discharge a portion of the \$7,000,000.00 of notes. At the hearing upon the application herein Pacific Gas and Electric Company offered testimony to the effect that it had sold \$8,985,200.00 par value of the first preferred stock authorized by this Commission and that it had collected from such sale \$4,925,239.50. The applicant offered testimony further to the effect that it had paid off \$2,897,000.00 of said \$7,000,000.00 of one year notes heretofore authorized by this Commission, and that it had available funds with which it proposed to pay off an additional amount so that there should remain outstanding but \$4,000,000.00 of the \$7,000,000.00 of notes heretofore authorized.

As security for the aforementioned \$7,000,000.00 of one year gold notes, the applicant had been authorized to pledge \$5,000,000.00 of its convertible general lien bonds and \$5,000,000.00 of its general and refunding mortgage bonds.

The applicant now proposes to put out a new issue of one year 5 per cent gold notes of the total par value of \$4,000,000.00 for the purpose of refunding the \$4,000,000.00 of one year notes which will remain as the unpaid portion of the \$7,000,000.00 of one year notes heretofore authorized. It is the purpose also to allow the same amount of collateral to remain as security for the \$4,000,000.00 of notes as was put up for the \$7,000,000.00 of notes.

Pacific Gas and Electric Company proposes to sell the notes for the issue of which application is herein made, to Bond & Goodwin for 98 per cent of par value plus accrued interest. The applicant figures that the money will therefore cost it approximately $7\frac{1}{2}$ per cent. Applicant's attention was called to the fact that the amount of collateral seemed excessive, but applicant explained this on the ground that the \$5,000,000.00 of convertible general lien bonds would subsequently be canceled and were to be used as collateral because of the desire that they be placed in escrow until canceled. It is the intention of the applicant to pay off a portion of these \$4,000,000.00 of notes through further funds received through the sale of its first preferred stock.

The notes in question are to be issued under a trust agreement marked Exhibit "A," between the Pacific Gas and Electric Company and F. N. B. Close, of New Jersey, vice-president of Bankers Trust Company, trustee, dated December 15, 1914.

Under the trust agreement applicant is permitted to issue notes not in excess of \$4,000,000.00. These notes, bearing 5 per cent interest per annum, payable June 15th and December 15th, are dated December 15, 1914, and mature December 15, 1915.

The payment of the notes is secured by the pledge of bonds as follows:

Of the Pacific Gas and Electric Company's general and refunding bonds, Series "A," bearing serial numbers M 25,431 to 30,430, inclusive, \$5,000,000.00; also

Of the Pacific Gas and Electric Company's general lien gold bonds of Series "A," bearing serial numbers 1 to 5,000, inclusive, \$5,000,000.00.

The notes will be of the denomination of \$1,000.00 each and will be numbered from 1 to 4,000 consecutively.

The company retains the privilege of redeeming any or all of the notes at any time after giving fifteen days' notice at not more than 100 $\frac{1}{4}$ per cent.

Under the trust agreement the Pacific Gas and Electric Company is not permitted to issue any of the notes until such time as it shall have redeemed or retired \$3,000,000.00 of the \$7,000,000.00 note issue secured by a trust agreement dated March 25, 1914.

The company agrees that so long as any of the notes secured by this agreement are outstanding it will not issue any of the general lien bonds under its general lien mortgage in addition to the \$5,000,000.00 general lien bonds Series "A" above referred to, and will not issue any of the general and refunding bonds except in accordance with the terms of the deed of trust securing the same.

The pledged bonds shall be deposited with the Bankers Trust Company, which shall hold them subject to the order of the trustee.

The general and refunding bonds may be released by the trustee upon the deposit by the Pacific Gas and Electric Company of cash equal to 85 per cent of the par value of the bonds withdrawn.

Under the trust agreement the trustee may and upon the request of 25 per cent of the holders in amount of the notes outstanding shall proceed to convert the trust estate into money if any one of the following events happen:

(a) The appointment of a receiver or receivers of the Pacific Gas and Electric Company.

(b) Failure to pay interest on any of the notes when due.

(c) Failure to pay the principal on any of the notes when the same shall have become due.

(d) Failure to pay the principal or interest on any of the old notes or any of the refunding bonds or any of the general lien bonds or any of the obligations called in the general and refunding mortgage "old obligations," or any part thereof.

(e) Failure to comply within thirty days after notice with the covenants and conditions imposed upon the Pacific Gas and Electric Company by the deeds of trust securing the general and refunding bonds or the general lien bonds.

(f) Failure to comply within thirty days after notice with the terms and conditions of this trust agreement.

I believe that this application should be granted and submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to this Commission for authority as follows:

(1) To issue \$4,000,000.00 of one year 5 per cent gold notes to be dated December 15, 1914, and to mature December 15, 1915.

(2) To execute to F. N. B. Close, of New Jersey, as trustee, a trust agreement to secure said issue of \$4,000,000.00 of notes.

(3) To issue and pledge \$5,000,000.00 of applicant's convertible general lien bonds as collateral security for said \$4,000,000.00 of 5 per cent one year gold notes.

(4) To issue and pledge \$5,000,000.00 of applicant's general and refunding mortgage bonds as collateral security for said \$4,000,000.00 of 5 per cent one year gold notes.

And a hearing having been held and it appearing that the purposes for which applicant proposes to issue said \$4,000,000.00 of one year 5 per cent gold notes are not reasonably chargeable to operating expenses or to income,

It is hereby ordered that Pacific Gas and Electric Company be granted authority and it is hereby granted authority as follows:

(1) To issue and sell \$4,000,000.00 of its 5 per cent one year gold notes, dated December 15, 1914.

(2) To execute a trust agreement with F. N. B. Close, of New Jersey, trustee, to secure said issue of \$4,000,000.00 of notes, said trust agreement to be substantially in the form of a draft submitted by the applicant in connection with this application and marked Exhibit "A," to which reference is hereby made.

(3) To issue and pledge \$5,000,000.00 of its convertible general lien bonds (Series "A," number 1 to 5000 inclusive) as collateral security for said \$4,000,000.00 of said 5 per cent one year gold notes.

(4) To issue and pledge \$5,000,000.00 of its general and refunding mortgage gold bonds (Series "A," numbered M 25431 to 30430 inclusive) as collateral security for said issue of \$4,000,000.00 of 5 per cent one year gold notes.

The authority herein granted is granted upon the following conditions and not otherwise :

(1) The \$4,000,000.00 of one year 5 per cent gold notes herein authorized shall be sold so as to net the applicant not less than 98 per cent of the par value thereof plus accrued interest thereon.

(2) The proceeds derived from the sale of said \$4,000,000.00 of 5 per cent one year gold notes shall be used for the purpose of refunding or discharging \$4,000,000.00 of applicant's indebtedness, said indebtedness being the unpaid portion of an issue of \$7,000,000.00 of applicant's one year notes, dated March 25, 1914.

(3) The \$5,000,000.00 of convertible general lien bonds herein authorized to be pledged as collateral security shall only be used for the purpose specified and shall thereafter be returned to applicant's treasury and canceled.

(4) Pacific Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the notes hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said notes during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted shall apply to such notes as shall have been issued and such bonds as shall have been pledged on or before June 30, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of January, 1915.

DECISION No. 2091.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR PERMISSION TO INSTALL TELEPHONE PLANT AND TO PUBLISH, FILE AND PUT INTO EFFECT RATES FOR SERVICE AT HERALD, SACRAMENTO COUNTY, CALIFORNIA.

Application No. 430.

Decided January 20, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that the subject of this application has been informally adjusted,

It is hereby ordered that this application be and the same is hereby dismissed.

By order of the Railroad Commission.

Dated at San Francisco, California, this 20th day of January, 1915.

DECISION No. 2092.

IN THE MATTER OF THE APPLICATION OF L. G. THISTLE AND THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR PERMISSION TO ENTER INTO A CONNECTING AGREEMENT.

Application No. 456.

Decided January 20, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that the subject of this application has been entirely taken up in the order of this Commission heretofore made on February 14, 1914, in Application No. 927—in the matter of the application of L. G. Thistle and The Pacific Telephone and Telegraph Company for authority the one to enter and the other to withdraw from territory in and adjacent to Mariposa, Mariposa County, California,

It is hereby ordered that the above entitled application be and the same is hereby dismissed.

By order of the Railroad Commission.

Dated at San Francisco, California, this 20th day of January, 1915.

DECISION No. 2093.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA WESTERN
RAILROAD AND NAVIGATION COMPANY TO REFUND DIFFERENCE
BETWEEN TARIFF AND CONTRACT RATES.

Application No. 373.

Decided January 20, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that the subject of this application has been informally adjusted,

It is hereby ordered that this application be and the same is hereby dismissed.

By order of the Railroad Commission.

Dated at San Francisco, California, this 20th day of January, 1915.

DECISION No. 2094.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND
EASTERN RAILWAY COMPANY TO ISSUE TWO NOTES.

Application No. 1492.

Decided January 20, 1915.

Applicant authorized to issue two promissory notes aggregating the total sum of \$58,000.00, such notes to be issued in lieu of notes of a like amount heretofore issued without proper authorization of the Commission.

Jesse H. Steinhart, for Applicant.

Wallace M. Alexander, in propria persona.

Louis Rosenthal, in propria persona.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application by Oakland, Antioch and Eastern Railway to issue two notes:

One note dated January 29, 1913, in favor of Sebastiane and Edward Cecchettini, due January 29, 1916, for \$23,000.00;

One note dated January 14, 1913, in favor of Louis Caffaro, due January 14, 1916, for \$35,000.00.

It is stated by the applicant that these notes were issued on the dates specified; that the applicant had not realized that said issue was in violation of the Public Utilities Act until the matter was called to its attention by a representative of this Commission.

The applicant states that the note for the sum of \$23,000.00 was issued January 29, 1913, to Sebastiane and Edward Cecchettini in part payment for a parcel of real estate at Second and "M" streets in Sacramento, which it now uses for a freight terminal. The full price was \$59,000.00, of which \$36,000.00 was paid in cash and a note for three years at 6 per cent per annum given for the balance. The note is secured by mortgage on the parcel of real estate.

The note for the sum of \$35,000.00 was issued on January 14, 1915, to Louis Caffaro in part payment for a parcel of real estate on Third and "I" streets in the city of Sacramento, purchased by the applicant for a passenger terminal, to which use it is now devoted. The cost of this property was \$60,000.00, of which \$25,000.00 was paid in cash and a note given for the balance for three years with interest at 6 per cent per annum. The note is secured by a mortgage on the real estate purchased.

This appears to have been a transaction in entire good faith, and while the Commission has no power to validate notes illegally given, it can authorize a new note to take the place of one improperly issued. Obviously, this railway should take proper steps to remove all question of doubt as to proceedings involving its terminals. I, therefore, recommend that the application be granted and submit the following form of order:

ORDER.

Oakland, Antioch and Eastern Railway having applied to this Commission for authority to issue two notes, as set forth in the above opinion, and a hearing having been held and it appearing that the purposes for which said notes are to be issued are not in whole or in part reasonably chargeable to operating expenses or income,

It is hereby ordered that Oakland, Antioch and Eastern Railway be given authority and it is hereby given authority to issue two notes as follows:

One note to Sebastiane and Edward Cecchettini in the sum of \$23,000.00;

One note to Louis Caffaro in the sum of \$35,000.00.

It is further ordered that the applicant be granted authority and is hereby granted authority to mortgage the certain parcel of real estate in the city of Sacramento at Second and "M" streets now used as its freight terminal, as security for said note to Sebastiane and Edward Cecchettini in the sum of \$23,000.00.

It is further ordered that the applicant be granted authority and is hereby granted authority to mortgage a certain parcel of real estate in the city of Sacramento at Third and "I" streets, now used as its passenger terminal, as security for the note herein authorized to be issued to Louis Caffaro in the sum of \$35,000.00.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The notes herein authorized to be issued shall be used to take up and repledge notes heretofore issued without the authority of this Commission as follows:

One note dated January 29, 1913, in favor of Sebastiane and Edward Cecchetti, due January 29, 1916, for \$23,000.00;

One note dated January 14, 1913, in favor of Louis Caffaro, due January 14, 1916, for \$35,000.00.

(2) The notes herein authorized to be issued shall bear date of January, 1915, and shall be made payable in January, 1916, and shall bear interest at a rate not to exceed 6 per cent per annum.

(3) The applicant herein shall report to this Commission within thirty days after the notes herein authorized to be issued shall have been issued, stating the terms and conditions of such issue.

(4) The authority herein given is conditioned upon the payment by the applicant of the fee prescribed in the Public Utilities Act.

(5) The authority herein given to issue notes shall apply to such notes as shall have been issued on or before June 30, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of January, 1915.

DECISION No. 2095.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE SAFETY OF THE INTERLOCKING PLANT KNOWN AS THE "GOLDEN GATE TOWER" IN OAKLAND, CALIFORNIA.

Case No. 741.

Decided January 20, 1915.

The Atchison, Topeka and Santa Fe Railway Company, Southern Pacific Company and San Francisco-Oakland Terminal Railways operating trains in connection with an interlocking plant known as Golden Gate Tower, which plant is found by the Commission, and admitted by respondents, to be inadequate and dangerous, respondents directed within six months to construct a first class standard interlocking plant to be built and operated in accordance with General Order No. 33 of this Commission, the division of costs to remain as previously established by agreement between parties in interest. The Atchison, Topeka and Santa Fe Railway and San Francisco-Oakland Terminal Railways also directed to maintain a crossing bell in connection with such crossing.

Geo. D. Squires, for Southern Pacific Company.

U. T. Clotfelter, for The Atchison, Topeka and Santa Fe Railway Company.

W. H. Smith and A. L. Whittle, for San Francisco-Oakland Terminal Railways.

John J. Earl, for City of Oakland.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This case was instituted on the Commission's own initiative to investigate the situation at the "Golden Gate" interlocking tower of the Santa Fe and Southern Pacific companies, the condition of which, on the quarterly performance sheets filed by the carrier under the requirements of the Commission's General Order No. 33, was indicated to be in an unsafe and unsatisfactory condition. A public hearing was held in this matter, at which all interested parties were represented.

This tower is located at the junction of the Santa Fe's line, running from Richmond to Oakland, with the Southern Pacific Company's suburban line, running to Berkeley. The intersection of the tracks is at the junction of Stanford avenue and Lowell street, where Stanford avenue is occupied by two tracks of the Southern Pacific Company and Lowell street by the single track line of the Santa Fe. This plant was originally built and paid for by the Santa Fe when their construction made it necessary for them to cross the tracks of the Southern Pacific Company at this point. Later the San Francisco-Oakland Terminal Railways built their double track line, known as the Sacramento street line, approximately paralleling the Santa Fe, across the Southern Pacific near this point. When the San Francisco-Oakland Terminal Railways' track was laid it was apparent that the interlocking plant should be remodeled to permit the operation of the San Francisco-Oakland Terminal Railways' trains being controlled by the operator of the tower. The plant, however, was becoming old and inadequate since the Southern Pacific Company had increased the number of functions operated therein, and it was decided by the officials of the three interested railroads that a new tower and interlocking plant should be built and that this new facility should be of modern construction and provide for passage of all trains over the intersections under protection. This agreement was made on August 15, 1912, and provided fully for construction, maintenance, operation and division of expense of the cost of this plant. It appears from facts developed at the hearing, that after this contract was agreed to between the representatives of the companies, some disagreement as to division of expense and the wording of minor clauses therein caused a long delay and during the interim the financial condition of the San Francisco-Oakland Terminal Railways had changed so that when the agreement or contract was finally executed by the officials of the interested railroads the San Francisco-Oakland Terminal Railways was

unable to find sufficient money to pay its share of the expense. The matter was taken up by the San Francisco-Oakland Terminal officials, first with the Southern Pacific Company and then with the Santa Fe, in an endeavor to get them to pay the necessary cost of this plant and to later be reimbursed for their expenditures by the San Francisco-Oakland Terminal Railways when it had funds available. The Santa Fe and the Southern Pacific Company manifested considerable reluctance to build a plant on this basis and the matter dragged. In the meanwhile representatives of the three companies met and in a memorandum agreement interpreted and amplified that portion of the agreement of August 15, 1912, pertaining to the division of the expense of the new plant.

While these negotiations were being carried on the Santa Fe and Southern Pacific companies did not wish to spend any more money than was necessary on the maintenance of this plant, for the reason that such moneys would be lost when the new plant was finally constructed. The Southern Pacific Company, however, a few months ago did spend considerable money for expediting the passage of its own trains, but this expense has been in line with that which would be incurred by the construction of the new plant, and the functions installed will, it seems, most of them be useful when the new plant is built. Matters were at this stage when the hearing was held.

There is no question regarding the condition of this plant. Representatives of the three companies admitted that the situation at present was dangerous and that a new interlocking plant should be constructed at this point. The only question then is relative to the matter of finding the money on the part of the San Francisco-Oakland Terminal Railways to finance the same. There was no serious question made regarding the manner of the division of expense between the three companies interested, and I see no reason why this division of expense as outlined in the memorandum agreement, mentioned previously, and, in connection with the agreement of August 15, 1912, filed as an exhibit in this case, should not obtain.

On December 3, 1914, the San Francisco-Oakland Terminal Railways filed with the Commission a petition to amend an order of the Commission previously issued so that money could be secured, among other things, for the construction of this interlocking plant, by means of promissory notes. This permission was granted them on December 21, 1914, in Decision No. 2019, and the Commission has consequently gone as far as it can to enable this company to secure the money for this construction. Since there is no question but what these crossings should be properly protected the San Francisco-Oakland Terminal Railways must find some means to pay for their just share of the expense of such protection.

Stanford avenue runs parallel, as previously stated, with the tracks of the Southern Pacific Company and crosses the tracks of the Santa Fe and the San Francisco-Oakland Terminal Railways in the immediate vicinity of this interlocking plant. This road crossing is at present protected by a crossing bell. I believe when the new interlocking plant is installed that this crossing protection should remain, and that the expense of such installation should be borne by the Santa Fe and the San Francisco-Oakland Terminal Railways, inasmuch as the tracks of these two companies alone are crossed by this avenue.

I recommend the following form of order:

ORDER.

The Commission, on its own initiative, having investigated conditions at the interlocking plant, known as the "Golden Gate Tower," situated at Lowell street and Stanford avenue, at the intersection of the tracks of the Southern Pacific Company with those of The Atchison, Topeka and Santa Fe Railway Company and San Francisco-Oakland Terminal Railways, and a public hearing having been held, and it appearing that the present plant is inadequate and unsafe, as admitted by representatives of all parties, and it appearing further that the manner of the division of cost of this interlocking plant has been previously agreed upon between the interested parties on a basis which is fair and equitable, in the agreement of August 15, 1912, and the memorandum agreement accompanying same,

It is hereby ordered that San Francisco-Oakland Terminal Railways, Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company do, within six (6) months from the date of this order, install and place in operation a first class standard interlocking plant to protect the crossing of the tracks of Southern Pacific Company with the track of The Atchison, Topeka and Santa Fe Railway Company and San Francisco-Oakland Terminal Railways, said interlocking plant to be built and operated in accordance with the terms of this Commission's General Order No. 33.

The expense of constructing this plant shall be borne in accordance with the agreement hereinbefore mentioned, and dated August 15, 1912, together with the memorandum agreement accompanying same.

The cost of the maintenance of this plant shall be borne thereafter in accordance with the terms of the before mentioned agreement of August 15, 1912.

For the protection of traffic on Stanford avenue, when this interlocking plant is installed, there shall be installed a suitable crossing bell or flagman, either automatic or under control of the operator of the interlocking plant, and the cost of this crossing protection device, over and above the cost of installing the interlocking plant, shall be

borne one half ($\frac{1}{2}$) by The Atchison, Topeka and Santa Fe Railway Company and one half ($\frac{1}{2}$) by the San Francisco-Oakland Terminal Railways. Said protection device shall be maintained thereafter and one half ($\frac{1}{2}$) of the expense thereof shall be borne by The Atchison, Topeka and Santa Fe Railway Company and one half ($\frac{1}{2}$) by San Francisco-Oakland Terminal Railways.

The Commission reserves the right to make such further orders relative to the operation and maintenance of this interlocking plant as to it may seem right and proper, when, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of January, 1915.

DECISION No. 2096.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR PERMISSION TO LAY ADDITIONAL RAILWAY TRACKS AT GRADE IN AND ACROSS A PORTION OF "B" STREET IN THE CITY OF SAN DIEGO, SAN DIEGO COUNTY, CALIFORNIA.

Application No. 1461.

Decided January 20, 1915.

The Atchison, Topeka and Santa Fe Railway Company desiring to construct certain of its tracks across "B" street in the city of San Diego and said city petitioning that the Commission grant such application provided that applicant agrees to construct an undergrade or overhead crossing at this particular point within two years, and it appearing that present traffic along "B" street does not warrant a separation of grades at the present time but that such crossing would be too dangerous to remain open: Applicant permitted to construct its tracks across "B" street as applied for, provided the city of San Diego close such street to traffic for a period of three years, at which time the Commission reserves the right to make such further order affecting such crossing as may at that time appear necessary.

U. T. Clotfelter, for The Atchison, Topeka and Santa Fe Railway Company.

T. B. Cosgrove, for the City of San Diego.

M. A. Luce, for the "B" street property owners.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

On December 17, 1914, The Atchison, Topeka and Santa Fe Railway Company filed with the Commission its application for permission to cross "B" street at grade in the city of San Diego, with a number

of railroad tracks. The Commission was unwilling to make an *ex parte* order granting the application without a hearing, and the matter was set down for a hearing in San Diego on January 12, 1915. The applicant, the city of San Diego, and the interested property owners on "B" street were represented at that hearing; a large amount of testimony was taken, and a decision can now be made.

The circumstances surrounding this crossing are discussed partly in the petition and answer filed by the city of San Diego, and were further brought out by the investigation undertaken on behalf of the Commission. It will be necessary to consider the situation in some detail.

The city of San Diego has, during the past year, been engaged in the work of preparation for an exposition in commemoration of the opening of the Panama Canal, which exposition was opened to the public on January 1, 1915; and being widely advertised throughout the United States and other countries, undoubtedly will attract large numbers of people. At the present time the applicant's line of railway is the only one entering San Diego from transcontinental points, and a large portion of travel to the exposition will be carried over that line. The applicant has, for the purpose of providing ample and comfortable facilities for handling this traffic, and also in order to provide for future growth of business, spent a large sum of money in demolishing its old facilities and building new ones, consisting of new passenger and freight depots and of changes in the yards and terminal layouts necessary to utilize these new facilities. The new passenger depot is practically completed at this time, but among other things still required to be done by the applicant is the tearing down and removing of its old passenger depot, the installation, in addition to the existing tracks, of a number of additional tracks across that portion of "B" street in San Diego City lying within the station grounds, as shown on the map and profile filed with the application. There also remains to be done the rearrangement of some of the existing tracks and the laying down of vitrified brick pavement, a portion of which will be within the boundaries of "B" street, so that passengers alighting from trains will not be compelled to land in dust or mud.

It was the desire and intention of the applicant to have all this work completed by the time the exposition was to open. It appears that the applicant petitioned the common council of the city of San Diego to vacate and close that portion of "B" street lying within the boundaries of the station grounds, and that the petition was joined in by all commercial organizations of the city; also that a petition praying that the common council vacate and close that portion of "B" street was also filed by a number of the property owners along "B"

street. It further appears that pursuant to these requests the city council passed a resolution, which I will quote, as follows:

RESOLUTION No. 18728.

Be it resolved by the common council of the city of San Diego as follows:

That the city attorney be and he is hereby authorized and directed to prepare and file with this council the necessary papers to enable this council to declare "B" street, in said city, between a point 100 feet west of the west line of Arctic street and the east line of Atlantic street, unsafe and dangerous for public travel and use, and closing said street between said points to public travel, such closing to be for a period of two years, and at the same time to prepare and submit to this council the necessary papers to authorize The Atchison, Topeka and Santa Fe Railway Company to lay in said "B" street between said points such railway tracks as may be necessary to conduct the business of said railway.

After the passage of this resolution the council passed another resolution, No. 18781, which reads:

RESOLUTION No. 18781.

For that whereas The Atchison, Topeka and Santa Fe Railway Company, a corporation, has or is about to make application to the Railroad Commission of the State of California for permission to lay its tracks across "B" street between Arctic street and Atlantic street in the city of San Diego; and

Whereas, This common council believes that the granting of said permission to The Atchison, Topeka and Santa Fe Railway Company to lay said tracks will inure to the benefit of the inhabitants of the city of San Diego, now therefor

Be it resolved, by the common council of the city of San Diego, as follows:

That the common council of the city of San Diego hereby express their willingness and consent that the Railroad Commission of the State of California grant The Atchison, Topeka and Santa Fe Railway Company, a corporation, permission to lay its railroad tracks across "B" street between Arctic street and Atlantic street in the city of San Diego.

It would seem, therefore, that the common council of San Diego realized that this crossing would be unsafe and dangerous, but nevertheless was willing that this Commission should grant the application. If the application were granted there would operate over this crossing daily from sixteen to twenty regular passenger trains, and in addition to the regular service there would be a practically continuous switching movement across "B" street; and as there is between "B" street and the next open street south thereof, standing room for only seven passenger cars, the applicant would be required to cut all trains of a

greater number of cars if "B" street is to be kept open. There will necessarily be many trains of more than seven cars.

Long experience all over the country has shown that neither gates, automatic flagmen nor human flagmen can be an effective protection under such circumstances. A solution of the problem by means of a separation of grades was considered. The applicant claims that the cost incident to such a separation, either by means of a subway or a viaduct, is so large that neither one should be required, in view of the fact that there is not now, and in all probability will not be for several years, any development of the waterfront at the foot of "B" street that would justify an order separating the grades and its attendant large expense; and even when and after any extensive developments of the waterfront at the foot of "B" street shall have taken place, there is convenient and easy access thereto by way of Arctic street, which the applicant is paving at its expense, "D" street and Atlantic street, or by way of a detour of one short block.

The city of San Diego in its petition and answer denies that a separation of grades is not now, or will not be hereafter, justified. Its common council on December 3, 1914, passed a resolution, No. 18692, as follows:

RESOLUTION No. 18692.

Be it resolved by the common council of the city of San Diego, as follows:

That the sense of the common council, in regard to the closing of a portion of "B" street, in said city, is as follows:

That the common council favors the closing of "B" street, provided that at the expiration of two (2) years' time The Atchison, Topeka and Santa Fe Railway Company shall within six months following official demand by the city of San Diego, construct at the expense of said railway company a viaduct or subway along, across and over that portion of said "B" street, petitioned to be closed in Document No. 83416, on file in the office of the city clerk of said city. Said viaduct or subway to be constructed to the satisfaction and to the approval of the city engineer of said city. Provided, however, that in the event the above demand is not complied with in the time specified, said closing of said "B" street to be null, void and of no effect.

The city now prays that the Commission make its order separating the grades at the foot of "B" street, and at the point where said "B" street crosses the tracks of The Atchison, Topeka and Santa Fe Railway Company; and that it grant to the applicant authority and consent to install nine additional tracks across "B" street at the points mentioned in petition. The city desires that this grant be made upon condition that the city of San Diego shall pass such resolutions and ordinances which may, under the law, be required to close "B" street

at said point, and upon the further condition that at the expiration of not less than two years the applicant shall, within six months following official demand by the city of San Diego, construct a viaduct or subway along, across and over the portion of said "B" street sought to be closed; and that the cost of said viaduct or subway and the approaches thereto shall be borne by applicant.

There was no disagreement among the interested parties at the hearing as to the dangerous condition of a grade crossing at the point in question, and I am thoroughly convinced that the application should not be granted in the form prayed for by applicant. Even if the crossing, in a measure, were protected by the installation of gates and the placing of a watchman, the situation would be unsatisfactory both to the city and to the applicant. Inasmuch as there would be an almost continuous movement of trains and switch engines, the gates would be down during most of the time, and the street would, in effect, be practically closed.

As between a separation of the grades by a subway and a viaduct, the subway appears to be impracticable for engineering reasons, and an overhead crossing would have to be constructed. A tentative plan for such a structure shows that it would be 1,625 feet long, extending from Columbia street on the east to within 200 feet of the bulkhead line on the west, and that it would cost between two and three hundred thousand dollars. The grades of approach would be 6.75 per cent from the city side and 5 per cent from the waterfront, respectively, and the viaduct would have to span, with a 22 foot clearance, not only the eighteen tracks of the applicant but also the right of way of the San Diego and Arizona Railway Company and the track of the Los Angeles and San Diego Beach Railway. It would be a very large and expensive structure. The witnesses at the hearing in San Diego were unanimous in their testimony that such a viaduct was not now needed. Practically no travel by vehicles or pedestrians exists at this time between the territory on the east side and the west side of the applicant's line in the neighborhood of "B" street; and this condition will not change until the city's tidelands have been further developed. This work, however, is now under way, and provision will have to be made to make these tidelands in the future readily accessible to the city.

It is my opinion that the traffic over "B" street at this point should be suspended for at least three years. If it should thereafter appear desirable to resume traffic at this point, either at grade or by a separation of grades, the city of San Diego can bring the matter before the Commission. I am convinced that it is absolutely necessary, not only for the applicant but for the city as well, to have the railway tracks laid across "B" street. The new depot can not be put into use and the old facilities removed until these tracks have been put

down. I recommend, therefore, that the city suspend traffic over "B" street for the necessary distance for a period of three years and that applicant be authorized after the passage by the city of the necessary resolution so suspending traffic to lay its rails across "B" street in the number and manner specified in the petition herein.

I submit the following form of order:

ORDER.

The Atchison, Topeka and Santa Fe Railway Company, having filed with this Commission its application for permission to lay additional railway tracks and make certain changes in the existing tracks, in and across "B" street, in the city of San Diego, San Diego County, California, as shown on the map and profile attached to the petition; and the city of San Diego having joined in this application; and a hearing having been held, and testimony having been taken; and it appearing to the Commission that the tracks, eighteen in all, are necessary for the transaction of the applicant's business and for the convenience of the public, and therefore should be laid; and it further appearing that a grade crossing at this point would be extremely dangerous and could not be made reasonably safe if public traffic via "B" street continues at this point; and that a separation of grades, by reason of its extreme cost, is not now practical; and that traffic over "B" street across the tracks of The Atchison, Topeka and Santa Fe Railway Company should be suspended as hereinafter indicated,

It is hereby ordered that permission be hereby granted The Atchison, Topeka and Santa Fe Railway Company to construct its tracks across "B" street between Arctic and Atlantic streets, in the city of San Diego, as shown by the map and profile attached to the application and subject to the following conditions, viz:

(1) The city of San Diego, through its common council, shall suspend traffic over "B" street between Arctic and Atlantic streets for a period of three (3) years.

(2) The entire expense of constructing these crossings shall be borne by applicant.

(3) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of January, 1915.

DECISION No. 2097.

IN THE MATTER OF THE APPLICATION OF THE ESCONDIDO UTILITIES COMPANY FOR AUTHORITY TO ISSUE A NOTE OR NOTES AND PLEDGE BONDS AS COLLATERAL SECURITY.

Application No. 1443.

Decided January 22, 1915.

Applicant applying for permission to issue its notes aggregating the sum of \$30,000.00, and it appearing that applicant's earnings do not justify the issue of notes in excess of an amount more than is absolutely required, applicant permitted to issue its notes aggregating the sum of \$29,000.00, provided that it shall, within the next twelve months, assess its stock in the total sum of \$5,000.00, this sum to be applied to applicant's indebtedness herein authorized.

A. H. Sweet, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application on the part of the Escondido Utilities Company to issue its two year 8 per cent note or notes for the face value of \$30,000.00 and pledge as security therefor its first mortgage 6 per cent gold bonds to the face value of \$45,000.00. It is proposed to sell the note or notes so as to realize \$28,000.00 and use the proceeds for the following purposes:

| | |
|--|-------------|
| To redeem bonds..... | \$3,000 00 |
| To retire note now held by the First National Bank of Escondido..... | 5,000 00 |
| To retire note now held by W. S. Sheperdson..... | 16,000 00 |
| To pay floating indebtedness..... | 1,449 53 |
| To defray cost of improvements of present system (Schedule 2, Sec. 1)... | 2,473 50 |
| Balance | 76 97 |
| Total | \$28,000 00 |

Applicant desires authority to apply the difference, if any, between the face value (\$16,000.00) of the note held by W. S. Sheperdson and the amount paid by it to discharge said note, to pay the cost, so far as possible, of extensions which as per Schedule 2, section 2 of the application herein, is estimated at \$6,031.71. The cost of the proposed extensions, applicant segregates as follows:

| | |
|--|------------|
| Transformers, cutouts, power and lights..... | \$1,430 00 |
| 105 meters at \$6.85..... | 719 25 |
| 150 35 foot poles at \$6.00..... | 900 00 |
| 100 30 foot poles at \$5.00..... | 500 00 |
| 150 20 foot poles 4/6 at \$1.00..... | 150 00 |
| 150 crossarms 3 x 4, 6 pin. at 50 cents..... | 75 00 |
| 100 crossarms 3 x 4, 4 pin. at 35 cents..... | 35 00 |
| 350 brackets (oak) at 10 cents..... | 3 50 |
| 600 glass insulators, 2,300 volts..... | 210 00 |
| 800 glass insulators, 115 volts..... | 240 00 |

| | |
|---|-------------------|
| <i>Brought forward</i> | \$4,262 75 |
| 1,000 feet 5/16 inches galvanized cable..... | 50 00 |
| bolts, nuts and washers..... | 50 00 |
| 1,400 oak pins | 100 00 |
| 2,216 pounds No. 6 copper wire at 18 cents..... | 398 88 |
| 1,046 pounds No. 10 W. P. wire at 18 cents..... | 190 08 |
| Labor | 1,000 00 |
| Total | \$6,051 71 |

Escondido Utilities Company is engaged in the gas and electric business in Escondido, San Diego County. For the thirteen months ending December 31, 1914, it reported operating revenues amounting to \$16,555.40. For the same period the operating expenses (including \$2,359.16 interest, \$766.49 taxes but no depreciation) amounted to \$17,447.59. The deficit for the thirteen months, without charging depreciation, was \$891.99.

For the details in regard to the operations of this applicant and the circumstances surrounding the issue of its note of \$16,000.00 to W. S. Sheperdson, reference is hereby made to the record in Application No. 1355, upon which findings will hereafter be issued.

In this application, as stated above, applicant desires authority to issue its 8 per cent note or notes to the face value of \$30,000.00 at such price as to net it \$28,000.00. Applicant desires further authority to issue said note or notes for a period of time not exceeding two years. The interest on the \$30,000.00 at 8 per cent would amount to \$2,400.00 per annum. Taking into consideration the proposed discount, applicant would be paying more than 15 per cent for the use of the money if borrowed for one year, and more than 12 per cent if borrowed for two years.

During the hearing of this application, attention was called to the increase of interest charge, and the inadequate earnings to meet such increase. Witnesses for applicant testified that they expected an increase in the earnings during the current year. However, such increase in earnings is more or less uncertain.

In view of the facts as above set forth, I believe a portion of the sum needed should be raised by an assessment upon the applicant's stock.

As the applicant states that its obligations are at this time pressing, I shall recommend that the application be granted, with the reservation that a portion of the notes herein authorized shall be paid by an assessment upon applicant's stock. I am not willing at this time to recommend such a heavy discount as applicant herein proposes, and the order will provide that the discount may not exceed \$1,000.00 instead of \$2,000.00 as requested.

I think that all of the necessities of this case will be met if this Commission authorizes, therefore, note or notes not in excess of \$29,000.00; from which the applicant shall realize the sum of \$28,000.00, on condition that the applicant shall assess its stockholders in a sum amounting to \$5,000.00 within the next twelve months and apply the proceeds from such assessment toward the liquidation of the note or notes herein authorized.

Accordingly I recommend the following form of order:

ORDER.

Escondido Utilities Company having applied to this Commission for authority to issue note or notes as set forth in the foregoing opinion, and a hearing having been held and it appearing that the purposes for which it is proposed to issue said note or notes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Escondido Utilities Company be granted authority and it is hereby granted authority to issue its note or notes in a total sum not to exceed \$29,000.00.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The note or notes herein authorized to be issued shall be issued for a period not to exceed two years from date; shall be sold by the applicant so as to net not less than 96 $\frac{1}{2}$ per cent of the face value thereof; and shall bear a rate of interest not to exceed 8 per cent per annum.

(2) The proceeds from note or notes herein authorized to be issued shall be used for the following purposes and not otherwise:

| | |
|--|--------------------|
| To redeem bonds----- | \$3,000 00 |
| To retire note now held by the First National Bank of Escondido----- | 5,000 00 |
| To retire note now held by W. S. Sheperdson not to exceed----- | 16,000 00 |
| To pay floating indebtedness----- | 1,449 53 |
| To defray cost of improvements of present system (Schedule 2, Sec. 1)--- | 2,473 50 |
| Balance ----- | 76 97 |
| Total ----- | \$28,000 00 |

(3) The note or notes herein authorized to be issued shall be issued only after the board of directors of Escondido Utilities Company shall have filed with this Commission a statement in writing to the effect that an assessment will be levied upon the stock of the applicant herein during the calendar year 1915 in a total sum not less than \$5,000.00, and that such sum as may be realized from said assessment shall be applied toward the liquidation of indebtedness represented by the note or notes herein authorized to be issued.

(4) It is further ordered that the applicant be granted authority and it is hereby granted authority to pledge its first mortgage 6 per cent gold bonds as collateral security for the note or notes herein authorized to be issued in such ratio that the face value of the note or

notes issued shall be not less than 66 $\frac{2}{3}$ per cent of the face value of the bonds pledged as collateral for such note or notes.

(5) The bonds herein authorized to be pledged are authorized to be pledged for the specific purposes named and after such issue shall be returned to applicant's treasury and issued thereafter only upon the order of this Commission.

(6) Escondido Utilities Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the note or notes hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said note or notes during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(7) The authority herein granted shall apply to such note or notes as shall have been issued on or before December 31, 1915.

(8) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of January, 1915.

Decision No. 2098, grade crossing; not printed. See end of volume.

DECISION No. 2099.

IN THE MATTER OF THE APPLICATION OF HERMOSA BEACH WATER COMPANY FOR PERMISSION TO RENEW A PROMISSORY NOTE GIVEN TO EL SOBRANTE LAND COMPANY FOR FIVE THOUSAND DOLLARS.

Application No. 1488.

Decided January 27, 1915.

Applicant authorized to execute its promissory note in the sum of \$5,000.00 to be issued in renewal of a note of a like amount now due.

F. D. Cornell, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application for an order authorizing the issue of a promissory note in the sum of \$5,000.00, payable to El Sobrante Land Com-

pany, or order, bearing interest at the rate of 6 per cent per annum, payable on or before January 1, 1916, for the purpose of taking up a similar note in the same amount, payable to the same payee, dated January 31, 1914, and due January 1, 1915.

A public hearing on this application was held in Los Angeles on January 19, 1915.

The note now outstanding was given for the purpose of securing funds with which to pay bills outstanding against applicant's water system. The note now to be given, in so far as the proceeds of the existing note were used for purposes properly capitalizable, will hereafter be taken up by the proceeds of bonds, in accordance with a permanent plan of financing.

I recommend that the application be granted and submit the following form of order.

ORDER.

Hermosa Beach Water Company having applied to the Railroad Commission for an order authorizing the issue of a promissory note in the sum of \$5,000.00, as hereinafter more particularly specified, for the purpose of taking up an outstanding note in the same amount, and a public hearing having been held on said application and the Railroad Commission finding that the order asked for should be made,

It is hereby ordered that Hermosa Beach Water Company be and the same is hereby authorized to issue its promissory note in the sum of five thousand dollars (\$5,000.00), payable to El Sobrante Land Company, or order, bearing interest at the rate of six (6) per cent per annum, and payable on or before January 1, 1916, on the following conditions and not otherwise, to wit:

1. Hermosa Beach Water Company shall issue said promissory note at not less than its face value and at an interest rate not in excess of six (6) per cent per annum.

2. Hermosa Beach Water Company shall use the proceeds from the note herein authorized to be issued solely for the purpose of taking up an outstanding note in the sum of five thousand dollars (\$5,000.00), dated January 31, 1914, and payable January 1, 1915, to El Sobrante Land Company.

3. Hermosa Beach Water Company shall report to the Railroad Commission, within ten days after issue, the fact of the issue of the note hereby authorized and the terms and conditions of the issue.

4. The authority hereby given to issue said promissory note shall not become effective until Hermosa Beach Water Company has paid the fee specified in section 57, as amended, of the Public Utilities Act.

5. The authority hereby given to issue said promissory note shall apply only to such note as may have been issued on or before March 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of January, 1915.

DECISION No. 2100.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO NATURAL GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS AS COLLATERAL.

Application No. 960.

Decided January 27, 1915.

REPORT OF THE COMMISSION.

This Commission in its Decision No. 1246, dated January 31, 1914, having authorized Sacramento Natural Gas Company to issue its one year 6 per cent notes to the face value of \$100,000.00, so as to net applicant not less than 95 per cent of the face value thereof, and to pledge as collateral, to secure the payment of said notes, its first mortgage thirty year 6 per cent gold bonds to the face value of \$200,000.00;

And Sacramento Gas Company, formerly Sacramento Natural Gas Company, on January 20, 1915, having filed an application with this Commission for an order extending the authority contained in the above mentioned decision;

And Sacramento Gas Company having alleged that it has been unable to sell any of its bonds authorized by Decision No. 601, dated April 24, 1913, which decision applied only to such bonds as might be issued and sold on or before November 1, 1913, and that its financial condition remains unchanged,

It is hereby ordered that the authority heretofore granted by this Commission to Sacramento Natural Gas Company (Decision No. 1246) to issue \$100,000.00 of its one year 6 per cent notes and to pledge as collateral security therefor \$200,000.00 of its first mortgage thirty year 6 per cent gold bonds, be extended and it is hereby extended to include such notes as may be issued and such bonds as may be pledged on or before December 31, 1915.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The bonds herein authorized to be issued shall be pledged as collateral security as herein specified and after such use shall be returned to applicant's treasury, and sold thereafter only upon the further order of this Commission.

(2) The bonds pledged as collateral to secure the payment of the notes issued or to be issued shall be deposited with a bank or trust company, which under the laws of the State of California may act in the capacity of trustee.

(3) The authority granted herein shall not become effective until this Commission by a supplemental order shall have approved the agreement under which the bonds are to be held, in escrow, for the benefit of the note holders.

(4) The new promissory notes of the face value of \$100,000.00 issued in renewal of the notes heretofore authorized, shall be issued under such terms and conditions as were prescribed in this Commission's Decision No. 1246, dated January 31, 1914, not in conflict with this order.

(5) The applicant shall report to this Commission on the twenty-fifth day of each month, stating the note or notes issued for the months preceding, the bonds pledged therefor, the amounts received, the rate of interest and the maturity of such notes, and the note or notes cancelled by such issue.

Dated at San Francisco, California, this 27th day of January, 1915.

DECISION No. 2101.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILWAY COMPANY TO ADVANCE THE RATE ON LUMBER PRODUCTS, CARLOADS, FORTY CENTS PER TON OF TWO THOUSAND POUNDS BETWEEN CERTAIN POINTS ON ITS LINE OF RAILWAY.

Application No. 43.

Decided January 27, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant herein having, under date of January 19, 1915, made written request to the Commission that the proceeding entitled as above be dismissed,

It is hereby ordered that this application be and the same is hereby dismissed without prejudice.

By order of the Railroad Commission.

Dated at San Francisco, California, this 27th day of January, 1915.

Decisions Nos. 2102, 2103, grade crossings; not printed. See end of volume.

DECISION No. 2104.

IN THE MATTER OF THE APPLICATION OF PACIFIC LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING AN ISSUE OF BONDS.

Application No. 1331.

Decided January 27, 1915.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

FIRST SUPPLEMENTAL ORDER.

This Commission having issued its order in the above entitled matter on September 28, 1914 (Decision No. 1829), and said order having granted Pacific Light and Power Corporation authority to issue \$170,000.00 of its first and refunding mortgage bonds, said bonds to be sold to the trustee, the proceeds to be used solely for the purpose of complying with the applicant's sinking fund provisions;

And the applicant now having reported to this Commission that in lieu of such bonds it has paid to the trustee \$208,240.00 in cash derived from income;

And the applicant now having applied to this Commission for authority to sell said \$170,000.00 of first and refunding mortgage bonds at not less than 85 per cent of their face value, for the purpose of reimbursing applicant in part for said \$208,240.00 paid to the trustee in cash,

It is hereby ordered that Pacific Light and Power Corporation be given authority and it is hereby given authority to issue and sell \$170,000.00 of its first and refunding 5 per cent mortgage bonds at not less than 85 per cent of their face value, plus accrued interest thereon.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The authority herein granted shall apply to such bond as shall have been issued on or before December 31, 1915.

(2) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

The foregoing first supplemental order is hereby approved and ordered filed as the first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of January, 1915.

DECISION No. 2105.

**IN THE MATTER OF THE APPLICATION OF PACIFIC POWER COMPANY
FOR AN ORDER AUTHORIZING THE ISSUE OF PROMISSORY NOTES
OF THE FACE VALUE OF SEVENTY-SIX THOUSAND DOLLARS.**

Application No. 1265.

Decided January 27, 1915.

REPORT OF THE COMMISSION.**SUPPLEMENTAL ORDER.**

This Commission having, in its order heretofore made in this proceeding on October 6, 1914, authorized Pacific Power Company to issue 76 promissory notes of the face value of \$1,000.00, each bearing interest at the rate of 7 per cent per annum, payable two years after date, 19 of which notes should be payable to M. D. Thatcher or order, and 19 payable to L. C. Phipps or order, and 38 payable to Delos A. Chappell or order, and it now appearing that applicant desires to issue in lieu of 76 separate notes, three notes as follows: (a) note of the face value of \$19,000.00 to M. D. Thatcher or order, (b) note of the face value of \$19,000.00 to L. C. Phipps or order, and (c) note of the face value of \$38,000.00 to Delos A. Chappell or order, and the Commission being of the opinion that applicant should be authorized to issue these three notes as requested,

It is hereby ordered that Pacific Power Company be and the same is hereby authorized to issue in lieu of the 76 promissory notes of the face value of \$1,000.00 each, authorized to be issued by the order of the Commission heretofore made in this proceeding on October 6, 1914, three promissory notes under the following conditions, and not otherwise:

1. The three notes to be issued shall be issued as follows:
 - (a) Face value of \$19,000.00, payable to M. D. Thatcher, or order;
 - (b) Face value of \$19,000.00, payable to L. C. Phipps, or order;
 - (c) Face value of \$38,000.00, payable to Delos A. Chappell, or order.
2. These three notes shall be issued at a rate of interest not to exceed 7 per cent per annum and for a period of not more than fifteen months.
3. These notes shall be issued in lieu of notes of the same aggregate face value authorized to be issued by the order of the Commission heretofore made in this proceeding on October 6, 1914.
4. Pacific Power Company shall report to the Railroad Commission the fact of the issuance of any notes under the authority of this order, within ten days after such issue.
5. The authority herein granted shall apply only to such notes as may be issued on or before February 28, 1915.

Dated at San Francisco, California, this 27th day of January, 1915.

DECISION No. 2106.

IN THE MATTER OF THE APPLICATION OF S. D. KAMRAR FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 912.

Decided January 27, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

S. D. Kamrar having requested that this application be dismissed,
It is hereby ordered that this application be and the same is hereby
dismissed.

Dated at San Francisco, California, this 27th day of January, 1915.

DECISION No. 2107.

IN THE MATTER OF THE APPLICATION OF JAMES A. MURRAY AND
ED FLETCHER FOR AN ORDER FIXING RATES TO BE CHARGED
AND COLLECTED FOR WATER FURNISHED BY THEM AND SERVICE
RENDERED BY THEM IN THE COUNTY OF SAN DIEGO, STATE OF
CALIFORNIA.

Application No. 1207.

Decided January 27, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The applicants in the matter entitled as above having made written
request to the Commission that this application be dismissed,

It is hereby ordered that this application be and the same is hereby
dismissed without prejudice.

Dated at San Francisco, California, this 27th day of January, 1915.

DECISION No. 2108.

IN THE MATTER OF THE APPLICATION OF WM. G. HENSHAW AND OF THE RIVERSIDE, RIALTO AND PACIFIC RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE SAID WM. G. HENSHAW TO SELL AND TRANSFER AND THE SAID COMPANY TO PURCHASE AND ACQUIRE THE CRESENT CITY RAILWAY AND ITS EQUIPMENT AND OF THE SAID COMPANY TO MORTGAGE THE WHOLE OF ITS RAILROAD AND TO ISSUE STOCKS AND STOCK CERTIFICATES.

Application No. 1496.

Decided January 29, 1915.

Wm. G. Henshaw, owning and operating a railroad in the counties of **Riverside and San Bernardino**, applies for and is granted permission to transfer such system to the **Riverside, Rialto and Pacific Railroad Company**, which latter company is also authorized to issue and deliver in exchange therefor, **\$300,000.00** par value of its capital stock and **\$200,000.00** face value of **6½** per cent promissory notes and to execute a mortgage covering its property as security therefor.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This application shows that applicant, Wm. G. Henshaw, is the owner of and is engaged in the business of operating a certain street interurban and commercial railroad extending from a point within the city of Riverside, in the county of Riverside, State of California, via the village of Bloomington, in the county of San Bernardino, in said state, to a point within the city of Rialto, in said county of San Bernardino, State of California, said street interurban and commercial railroad being commonly known as the Crescent City Railway, more particularly described and shown upon a map filed with the Commission to which reference is hereby made.

The application further shows that the Riverside, Rialto and Pacific Railroad Company, which has joined in this application, is a corporation, organized and existing under the laws of the State of California, as shown by certified copy of its articles of incorporation, filed in the office of the secretary of state of California, a copy of said certified copy being filed with this Commission; that said Crescent City Railway consists of all that certain real and personal property described in a copy of the deed thereof filed with this Commission marked "Exhibit A," and filed with this application; that the present value of said property is not less than \$500,000.00; that applicant, said Wm. G. Henshaw, has, since the 26th day of December, 1912, and prior thereto, owned, operated and maintained said Crescent City Railway as an individual; that applicant, said Wm. G. Henshaw, now desires to con-

tinue the ownership, management and operation of said railroad but to use as a means for continuing said ownership, management and operation the above named Riverside, Rialto and Pacific Railroad, and to that end desires to transfer all of said railroad and its equipment through and by means of a deed, properly executed and delivered by him, in the form of said "Exhibit A," to said Riverside, Rialto and Pacific Railroad Company, the consideration therefor being the issue by said Riverside, Rialto and Pacific Railroad Company to said Wm. G. Henshaw, and the other incorporators named in the articles of incorporation thereof, of 3,000 shares of its authorized capital stock of the aggregate par value of \$300,000.00, and the payment by said Riverside, Rialto and Pacific Railroad Company to the said Wm. G. Henshaw of the sum of \$200,000.00 in lawful money of the United States.

That of the said shares of stock it is desired that one share be issued to and held by Tyler Henshaw; one share issued to and held by Harry Chickering; one share issued to and held by Wm. H. Metcalfe; one share issued to and held by Wm. Lees, and the remaining 2,996 shares, or such part thereof as may be authorized by the Railroad Commission of the State of California, be issued to and held by the said Wm. G. Henshaw, who, with Tyler Henshaw, Harry Chickering, Wm. H. Metcalfe and Wm. Lees will be directors of said corporation, the said Wm. G. Henshaw to continue in the management and control of said corporation and through it to control and manage the said railroad.

The application further shows that on December 3, 1914, the Railroad Commission of the State of California found as a fact that the reproduction cost less depreciation of the operative property of said Crescent City Railway was, on the 30th day of June, 1914, the sum of \$430,052.55, and applicants allege that the reproduction cost less depreciation of said railroad is now more than said sum.

Applicant, the Riverside, Rialto and Pacific Railroad Company, asks permission to borrow the sum of \$200,000.00 to be used in partial payment of the purchase price of said railroad, as hereinbefore set forth, and to repay the same in accordance with the tenor of the promissory notes set out in the copy of the mortgage attached to the application and marked "Exhibit B," and to secure the payment of said promissory notes by a mortgage in the form of said copy attached to the application and marked "Exhibit B" of all of the property and equipment of said railroad therein described, said mortgage to be given to the Anglo-California Trust Company of San Francisco to secure the payment of certain notes payable two and one half years from date thereof at 6½ per cent per annum, said notes to consist of one hundred notes numbered 1 to 100, inclusive, of the denomination of

\$1,000.00 each, and twenty notes, numbered 101 to 120 inclusive, of the denomination of \$5,000.00 each.

It appeared at the hearing that the net earnings of said railroad for eighteen months ending June 30, 1914, were \$84,572.70, and that the freight and passenger traffic of said railroad and the net revenues to be derived therefrom will, in all probability, continue to increase and that the earnings of said railroad will annually exceed the earnings of said railroad for the year ending June 30, 1914, and that said railroad company can easily pay the interest on said indebtedness, which it now asks permission to create, without impairing its capital or its efficiency as a common carrier and without necessity for increasing its charges for freight or passenger service to the public, and can refund the principal of said indebtedness at maturity, or such part thereof as shall then be unpaid, without impairing its efficiency or increasing its charges to the public.

A full and accurate description of the said railroad, its organization, construction and operation, its revenues and expenses, its original cost, its reproduction cost and its reproduction cost less depreciation, may be found in the opinion and findings of this Commission made in the matter of the Commission's investigation into the value of the property of Wm. G. Henshaw, doing business as a common carrier under the name and style of Crescent City Railway in Case No. 411, made and filed the 3d day of December, 1914, which opinion and findings are hereby made a part of this opinion and order for the purpose of giving a recital of the facts and statements therein set forth.

The application further shows that a financial statement of said Wm. G. Henshaw, acting as such railroad corporation, prepared as of the first day of January, 1915, was attached to and made a part of the application and marked "Exhibit C."

Accordingly I submit the following order:

ORDER.

This proceeding having come on regularly for hearing and the Commission being duly advised, and being of the opinion that the application herein should be granted,

It is hereby ordered that Wm. G. Henshaw be and he is hereby authorized to transfer to the Riverside, Rialto and Pacific Railroad Company the property comprising the Crescent City Railway, which property is set forth in detail in the inventory attached to the application and marked "Exhibit A"; and

It is further ordered that the Riverside, Rialto and Pacific Railroad Company be and it is hereby authorized to issue 3,000 shares of its capital stock, in the aggregate par value of \$300,000.00—this stock to

be issued one share to Tyler Henshaw, one share to Harry Chickering, one share to Wm. H. Metcalfe, one share to Wm. Lees, and the remaining 2,996 shares to Wm. G. Henshaw; and

It is further ordered that the Riverside, Rialto and Pacific Railroad Company be and it is hereby authorized to issue promissory notes in the aggregate face value of \$200,000.00, one hundred of said notes to be for the face value of \$1,000.00 each, numbered 1 to 100 inclusive, and twenty of said notes to be for the face value of \$5,000.00 each, numbered 101 to 120 inclusive, said notes to be payable two and one half years from date and to bear interest at the rate of 6½ per cent per annum, payable semiannually.

The stock and notes herein authorized to be issued shall be issued in exchange for all of the property of the Crescent City Railway herein authorized to be transferred.

It is further ordered that the Riverside, Rialto and Pacific Railroad Company be and it is hereby authorized to execute a mortgage substantially in accordance with the form of mortgage attached to the application in this proceeding and marked "Exhibit B," which mortgage shall cover all of the property of the Crescent City Railway herein authorized to be transferred to said Riverside, Rialto and Pacific Railroad Company, said mortgage to be executed as a security for the notes which said company is herein authorized to issue.

The Riverside, Rialto and Pacific Railroad Company shall keep a separate, true and accurate account, setting forth the fact of the issuance of stock or notes in accordance with this order, stating the amount of such issue, the date of issuance and the consideration received therefor, and shall, on or before the twenty-fourth day of each month, make a verified report to the Commission setting forth the facts in accordance with the Commission's general order No. 24, which in so far as applicable, is made a part of this order.

This order shall not become effective until the fee due under section 57 of the Public Utilities Act has been paid.

The authority herein granted to the Riverside, Rialto and Pacific Railroad Company to issue stock and notes shall apply only to such stock and such notes as are issued on or before June 30, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of January, 1915.

DECISION No. 2109.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND
TERMINAL RAILWAYS FOR AUTHORITY TO ISSUE PROMISSORY
NOTES AND BONDS.

Application No. 990.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND
TERMINAL RAILWAYS FOR AUTHORITY TO ISSUE BONDS.

Application No. 1152.

Decided January 29, 1915.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

SECOND SUPPLEMENTAL ORDER.

This Commission, in Decision No. 2019, rendered December 21, 1914, having authorized San Francisco-Oakland Terminal Railways to issue its promissory notes in a sum not to exceed \$246,666.66; and said authority having been granted upon conditions specified in the order of said Decision No. 2019; and said order having provided that the proceeds from the sale of said notes should be used for the purposes therein set out; and said order having recited among said purposes:

“For the purchase of new cars, \$75,000.00”;

And the applicant now having presented a further petition to this Commission requesting that a further order be issued authorizing the applicant to expend the proceeds from the \$246,666.66 of notes as set out in said order in Decision No. 2019, with the exception that the proceeds of said notes in the sum of \$75,000.00 heretofore authorized for the purchase of new cars be used as follows:

| | |
|---|-------------|
| For the purchase of new cars..... | \$15,000 00 |
| For the reimbursement of applicant's treasury for moneys expended from income and after such reimbursement for the payment of applicant's taxes falling due February 1, 1915..... | 60,000 00 |
| Total | \$75,000 00 |

And the applicant having presented to this Commission the affidavit of Mr. F. W. Frost, its treasurer and secretary, showing that a sum in excess of said amount of \$60,000.00 has been expended by applicant from its income for purposes of capital account; and it appearing to this Commission that the authority now requested by the applicant should be granted;

It is hereby ordered that the order of this Commission in Decision No. 2019, rendered on December 21, 1914, be amended, and it is hereby

ordered amended by striking out subdivision (b) of condition No. 4 of said order, reading as follows:

“For the purchase of new cars, \$75,000.00”;

And by substituting in lieu of said subdivision (b) of condition No. 4 of said order, the following:

| | |
|--|-------------|
| For the purchase of new cars..... | \$15,000 00 |
| For the reimbursement of applicant's treasury for moneys expended from income for capital account, and after such reimbursement for the purpose of paying applicant's taxes..... | 60,000 00 |
| Total | \$75,000 00 |

It is further ordered that the order of this Commission in Decision No. 2019 shall in all other respects remain unchanged.

The foregoing second supplemental order is hereby approved and order filed as the second supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of January, 1915.

DECISION No. 2110.

IN THE MATTER OF THE APPLICATION OF MARIN COUNTY ELECTRIC RAILWAYS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION AND OPERATION OF A STREET RAILWAY SYSTEM IN MILL VALLEY, AND FOR AUTHORITY TO ISSUE STOCKS AND BONDS.

Application No. 947.

Decided January 29, 1915.

The Commission's original order having provided that applicant shall obtain from stock subscriptions \$35,000.00 in cash before beginning the construction of its proposed line of railway and applicant having presented a plan to construct the first unit, giving in payment promissory notes of its stock subscribers and applying for permission to proceed with such construction, application denied.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

FIFTH SUPPLEMENTAL OPINION AND ORDER.

This Commission has heretofore authorized the Marin County Electric Railways to issue 670 shares of capital stock of the par value of \$100.00 per share for the purpose of constructing an electric line of railway in Mill Valley. It was provided in the order that work should not be begun until the applicant had collected \$35,000.00 from stock subscriptions.

Marin County Electric Railways has heretofore presented a plan for beginning the construction of a unit of its system. This plan contemplated that the Hicks-Folte Corporation should undertake the work and should accept notes of persons subscribing to the stock of applicant under certain specified conditions. The Commission made no order thereon but in an opinion stated that it would hold the matter in abeyance pending the presentation of a more extensive and detailed plan.

The applicant now proposes that it accept the offer of the Hicks-Folte Corporation to construct a portion of its line extending from the Northwestern Pacific Railroad depot, in Mill Valley, for a distance of one mile, in the direction of the Cascades, and that it issue to the Hicks-Folte Corporation for such work, notes and deferred payments of stock subscribers living along the proposed line.

The applicant submits an exhibit showing stock subscriptions to a total of 210.7 shares, which, if paid at par, would amount to \$21,070.00. These subscribers, according to this same exhibit, have paid in cash a total of \$802.00.

The estimate for the first unit of this line, as approved by the Commission, was \$35,000.00. I do not feel disposed to alter the condition that the applicant should not begin work until it should have received cash from the sale of its stock in the amount of \$35,000.00 upon the showing presented. Applicant has collected only \$802.00 from stock subscribers and I do not regard this as a sufficient showing to warrant an amendment of the original authorization in this matter.

I therefore recommend that this application for a modification of the Commission's order in the matter herein be denied and submit the following form of order:

ORDER.

Marin County Electric Railways having applied to this Commission for a modification of this Commissioner's order in the above entitled matter, as outlined in the foregoing opinion, and it appearing for the reasons stated in the foregoing opinion that the showing made does not warrant a modification of this Commission's order in this matter.

It is hereby ordered that the application of Marin County Electric Railways for a modification of said order be and the same is hereby denied.

The foregoing fifth supplemental opinion and order are hereby approved and ordered filed as the fifth supplemental opinion and order or the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of January, 1915.

Decision No. 2111, grade crossing; not printed. See end of volume.

DECISION No. 2112.

IN THE MATTER OF THE APPLICATION OF NORTH MONETA GARDEN
LANDS WATER COMPANY FOR AN ORDER AUTHORIZING AN
INCREASE IN RATES FOR SALES OF WATER.

Application No. 1283.

Decided January 29, 1915.

Applicant operating a water utility supplying water for domestic and irrigation purposes, contends that its present rates are unduly low and insufficient to pay operating expenses and accordingly petitions the Commission for permission to increase such rates to \$2.50 for domestic purposes and 10 cents per 100 cubic feet for metered irrigation service. A number of applicant's consumers protest the jurisdiction of the Commission, contending that applicant is a mutual water company and as such, not subject to the jurisdiction of the Commission.

Held, That as the applicant water company was organized by a realty company to serve a certain district with water; which realty company still maintains control, through stock ownership, of the water company, applicant is a public utility subject to the jurisdiction of this Commission; accordingly a certain mortgage and note purported to be executed by applicant during the year 1913 is null and void as not having been properly authorized.

Held, As applicant's system was constructed to serve considerable more territory than is at present being served, the present limited number of consumers can not be expected to pay a rate sufficient to provide funds for depreciation, etc. Applicant permitted to increase its flat rate for domestic use from \$1.00 to \$1.50 per month, effective March 1, 1915. No adjustment made as to irrigation rates pending the submission of further evidence tending to justify such increase.

Ingall W. Bull, for Applicant.

Charles M. Ackerman, for Consumers.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application for an order authorizing an increase in the rates for water delivered for both domestic and irrigation uses.

The petition alleges in effect that North Moneta Garden Lands Water Company, hereinafter referred to as the water company, is a corporation engaged in supplying water for domestic and irrigation purposes to persons residing in section 15, township 3 south, range 14 west, S. B. B. and M.; that about fifty homes are located on the property served by petitioner; that the present rate for domestic water is a flat rate of \$1.00 per month; that the present rate for water for irrigation purposes is 20 cents per hour through a two-inch standpipe attached to a four-inch lateral; that said rates are not sufficient to pay the expenses of maintenance and operation, interest on the investment and depreciation; that in order to meet these expenses it will be necessary to increase the rate for domestic water from \$1.00 to \$2.50 per

month, flat rate, and the rate for irrigation purposes from 20 cents to 50 cents per hour through a two-inch standpipe attached to a four-inch lateral; that in addition to these rates petitioner desires to collect \$1.00 per month from each acre lot to which petitioner's mains are connected and on which water is not actually being used; that a mortgage on petitioner's entire property was foreclosed on or about January 1, 1914, and that unless relief is granted petitioner can no longer operate its water system; and that petitioner wishes to install meters when desired by petitioner or its patrons, and to charge a rate of 10 cents per 100 cubic feet of water supplied through the meters so installed. Petitioner asks that this commission make its order authorizing petitioner to increase its rates for water to \$2.50 per month, flat rate, for domestic water through a $\frac{3}{4}$ -inch pipe attached by a reducer to a four-inch main, 50 cents per hour for water supplied for irrigation purposes through a two-inch stand pipe connected with a four-inch lateral and 10 cents per 100 cubic feet for water sold for irrigation purposes through a meter. Petitioner also asks that it be authorized to charge a flat rate of \$1.00 per month for each acre lot to which its mains are connected, on which lots no water is actually being used.

A public hearing on this application was held in Los Angeles on January 19, 1915.

The evidence shows that petitioner is the owner of a water system consisting of one well, one 75 horsepower motor, one centrifugal turbine pump, one half mile fourteen-inch mains, one mile twelve-inch mains, six miles four-inch laterals, one 50,000 gallon tank, one 40,000 gallon tank, one 10,000 gallon tank and some five acres of land on which the well is located, all situated in section 15, township 3 south, range 14 west, S. B. B. and M., in Los Angeles County, near Inglewood, adjoining Hawthorne on the south. The water system was installed primarily for the purpose of aiding in the sale of lands owned by its incorporators in said section 15. These lands were subdivided into lots containing about one acre each and petitioner's mains were laid to each lot. A two-inch standpipe was attached to the lateral in the rear of each lot, for irrigation purposes, but the $\frac{3}{4}$ -inch standpipes for domestic service are installed only as needed. The evidence shows that out of some 480 lots only 50 have been built upon and use water for either domestic or irrigation purposes.

A number of consumers from this water system appeared at the hearing and protested against any action by this commission, on the ground that petitioner is strictly a mutual water company and that this commission has no jurisdiction over it. Attention must first be directed to this point.

Petitioner was incorporated under the laws of this state on February 11, 1904. The articles give the corporation power, among others, "to carry on the business of a water company, in all its branches, for the supplying of any lands in said section fifteen (section 15, township 3 south, range 14 west, S. B. B. and M.), and the occupants thereof, with water for irrigation or domestic uses or both." The articles do not state that the company is to be a mutual water company or that water is to be delivered only to stockholders. The company is authorized to issue 1,400 shares of capital stock of the par value of \$25.00 each.

The company's by-laws provide that if stock is issued appurtenant to land, one share of stock shall be issued for each acre and that the certificate of stock shall on its face show the lot or lots to which the water is made appurtenant. There is no provision, however, that all stock issued must be made appurtenant to land. Even if one share of stock should eventually be issued for each acre of land in this section, the total shares so issued would not exceed 640, whereas the company was incorporated for 1,400 shares, and has issued its entire authorized stock. Thus the control of the company may at all times be vested in outside parties, as has actually been the case continuously since its incorporation. Petitioner's records show that not to exceed 266½ shares have been issued to landowners in this section and that the remaining 1,133½ shares have been issued to Berlin Realty Company, the land company, and are now held by the Los Angeles Trust and Savings Bank as collateral security. These conditions are inconsistent with the existence of a mutual water company.

The question whether petitioner is a public utility or a mutual water company is of importance in several aspects. In January, 1913, the water company purported to mortgage all its property to the Berlin Realty Company, the owner of a majority of its capital stock, as security for the payment of a promissory note for moneys advanced. The note was not paid and the Berlin Realty Company thereafter secured a foreclosure of this purported mortgage.

If petitioner is a mutual water company, all its consumers may now find themselves in the position of having been sold out by the majority stockholder. On the other hand, if petitioner is a public utility, the mortgage and all proceedings thereunder are absolutely void, for the reason that petitioner did not secure this commission's authority to mortgage its property as provided in section 51 of the Public Utilities Act.

Again, if petitioner is a mutual water company, the land company, owning the major portion of the capital stock, can levy assessments *ad*

libitum, and the minority stockholders can secure no help from this commission. Nor can the commission assist them if petitioner fails to render good service.

Section 2 of chapter 80 of the laws of 1913 contains the most recent definition by the legislature of California of a mutual water company. The section reads as follows:

“Whenever any private corporation or association is organized for the purpose solely of delivering water to its stockholders or members, at cost, and delivers water to no one except its stockholders or members at cost, such private corporation or association is not a public utility, and is not subject to the jurisdiction, control or regulation of the Railroad Commission of the State of California.”

Petitioner does not come within this definition. On the evidence as introduced in this proceeding, I find that petitioner is a public utility subject to the jurisdiction of the Railroad Commission.

While compelled to make this finding, I am convinced that the most satisfactory method of handling the water problem of this section would be the ownership and operation of the system by the landowners themselves. In my opinion, the land company should turn over the system to the people for a small consideration, and the system should thereafter be owned and operated by those who are directly interested therein, either as a mutual company or an irrigation district.

I shall now address myself to the request for an increase in rates.

Petitioner gives its revenue for 1914 as follows:

TABLE I.
Revenue for 1914.

| | |
|-------------------|------------------|
| Domestic ----- | \$1,011 11 |
| Irrigation ----- | 236 20 |
| Connections ----- | 4 50 |
| Total ----- | <hr/> \$1,251 81 |

Of this revenue, \$204.25 was paid by the owners of a tract of land known as Central Acres. The use of water by this tract will soon be discontinued. The revenue for the year 1914, after subtracting the sums paid by the owners of the Central Acres tract, amounted to \$1,047.56.

Petitioner waives all interest on its investment and asks only rates sufficient to pay operating and maintenance expenses and depreciation.

The operating and maintenance expenses for 1914, as claimed by petitioner, are as follows:

TABLE II.
Operating and Maintenance Expenses
for 1914.

| (As claimed by petitioner.) | |
|------------------------------|-------------------|
| Materials and supplies ----- | \$160 93 |
| General repairs ----- | 22 40 |
| General expenses ----- | 40 51 |
| Telephone ----- | 28 00 |
| Taxes ----- | 60 18 |
| Power and salaries ----- | 1,313 65 |
| Bad debts ----- | 12 04 |
| Total ----- | \$1,637 71 |

An analysis of these costs shows that the item "materials and supplies" and \$5.50 of the item "general expenses" are properly chargeable to capital account and not to operating expenses. The item "power" and "salaries," consists of the salary of the engineer who operates the plant and the cost of electric energy used by the pump. In 1914, petitioner paid its engineer \$70.00 per month during the first seven months and \$40.00 per month during the last five months. The present engineer receives rent free and has certain perquisites such as the right to cut hay. I consider \$50.00 per month a reasonable allowance to be made for the engineer's salary.

Petitioner's statement, as corrected, shows a total of \$1,398.09 properly chargeable for operation and maintenance. It thus appears that the revenue secured in 1914, barring the revenue from the Central Acres, fell \$350.43 short of paying even operating and maintenance expenses, with no allowance for interest on the investment or depreciation.

Petitioner also claims an allowance for depreciation. Mr. H. F. Clark, one of this commission's assistant hydraulic engineers, estimated that it would cost \$23,000.00 to reproduce new this system, except the real estate, and that the depreciation would amount to about 5 per cent per annum on the sinking fund basis on the items which depreciate. As already pointed out, only fifty lots out of a total of at least 480 lots for which this system was constructed have as yet been built upon. It is elemental that in the beginning of a water utility's operations the rates frequently can not be made high enough to pay the normal allowance for depreciation. If an attempt were made to charge the first few consumers rates high enough to cover this charge, they could not afford to take water or to settle on the land. Of course, in the long run, the utility must receive an adequate allowance for depreciation, if fair judgment was used in the construction of the system. The present consumers of applicant's system can not reasonably be called upon to pay

the amount for depreciation which will be paid by the consumers when the system is more fully utilized.

I find on the evidence in this proceeding that the rate for domestic water should be increased from \$1.00 to \$1.50 per month, flat rate, but that it would be unjust to the present consumers to make any further increase in this rate.

No order will be made at the present time with reference to the rate for irrigation or the rate for metered water for the reason that the evidence is insufficient to justify an order. If petitioner will present additional data showing how much water flows per hour through the two-inch irrigation standpipes and full data with reference to the water intended to be metered, the commission will make such supplemental order as may seem proper in the premises.

The commission has no jurisdiction to compel the owners of lots in this section to pay for water which they do not use. Petitioner's counsel frankly concedes this point, but asks authority for his company to receive payment from owners of unimproved lots, if the latter desire voluntarily to make such payments to add to petitioner's revenue. This commission's order, however, is not necessary to enable kindly disposed individuals to make gifts to public utilities and no order under this head need issue in this proceeding.

I submit the following form of order:

ORDER.

North Moneta Garden Lands Water Company having applied for an order of the Railroad Commission authorizing the company to increase its rates for water supplied for irrigation and domestic purposes, as set forth in the petition herein, and a public hearing having been held upon said application and the Railroad Commission finding that petitioner is a public utility and that the rates herein established are just and reasonable rates,

It is hereby ordered that North Moneta Garden Lands Water Company be and the same is hereby authorized, effective March 1, 1915, to charge for domestic water through a $\frac{3}{4}$ -inch pipe attached by a reducer to a four-inch main, the flat rate of \$1.50 per month.

It is further ordered that North Moneta Garden Lands Water Company may present further evidence to the Railroad Commission in the matter of the rate for irrigation and for metered service, as indicated in the opinion herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of January, 1915.

Decision No. 2113, grade crossing; not printed. See end of volume.

DECISION No. 2114.

IN THE MATTER OF THE APPLICATION OF BOARD OF TRUSTEES OF THE CITY OF DALY CITY, SAN MATEO COUNTY, CALIFORNIA, FOR PERMISSION TO CONSTRUCT A GRADE CROSSING OVER THE TRACKS OF SOUTHERN PACIFIC COMPANY, ON KNOWLES AVENUE, IN DALY CITY, SAN MATEO COUNTY, CALIFORNIA.

Application No. 1410.

Decided January 29, 1915.

J. H. Morris, for Applicant.

Geo. D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

A public hearing on this application was held at Daly City, San Mateo County, California, on January 9, 1915. Subsequently, namely, on January 22, 1915, the applicant, in writing, requested that this application be dismissed without prejudice. I recommend that this application be disposed of in accordance with this request for dismissal, and submit the following form of order:

ORDER.

A public hearing having been held in the above entitled application, and the applicant having asked the Commission that this application be dismissed without prejudice,

It is hereby ordered that this application be and the same is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of January, 1915.

Decisions Nos. 2115, 2116, grade crossings; not printed. See end of volume.

DECISION No. 2117.

IN THE MATTER OF THE APPLICATION OF PETALUMA POWER AND WATER COMPANY FOR AUTHORITY TO RENEW A PROMISSORY NOTE.

Application No. 1473.

Decided January 30, 1915.

Applicant authorized to issue its promissory note of the face value of \$12,000.00, bearing interest at 5 per cent, such note to be issued in renewal of a note of a like face value and for a period not to exceed one year.

A. B. Hill, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

Petaluma Power and Water Company, operating a water system in Petaluma and vicinity, in Sonoma County, having applied to this Commission for authority to issue a promissory note in the principal sum of \$12,000.00 to the Petaluma Swiss-American Bank, with interest at the rate of 5 per cent per annum, said note to be payable ninety days after date and to be used for the purpose of refunding a note of like amount, dated January 30, 1911, issued by the applicant herein to Petaluma Swiss-American Bank; and the report of the applicant herein for the calendar year 1913, as filed with this Commission, showing operating revenues in the sum of \$34,737.00; net operating revenue, \$20,020.31; bond interest in the sum of \$5,000.00; and a profit for the year of \$14,456.81;

And testimony having been offered at the hearing to the effect that applicant's operating revenue for the calendar year 1914 amounted to approximately \$35,000.00, and its net profit after the payment of expenses and interest, \$11,000.00;

And a public hearing having been held on the application herein and it appearing that the purposes for which the note in the sum of \$12,000.00, dated January 30, 1911, was issued, were not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Petaluma Power and Water Company be granted authority and it is hereby granted authority to issue a promissory note in the principal sum of \$12,000.00 to the Petaluma Swiss-American Bank, said note to bear interest at the rate of 5 per cent and to mature not later than one year from the date of issue.

It is further ordered that the applicant be granted authority and it is hereby granted authority to issue the note herein authorized to be issued for such period of time as it may elect, provided such time shall not exceed one year from the date of issue, and to issue renewal notes thereof, provided the maturity of such renewal notes or any of said notes shall be not later than January 31, 1916.

Upon the issue of the note or notes herein authorized to be issued, the note of the applicant, dated January 30, 1911, to Petaluma Swiss-American Bank shall be paid and canceled.

The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

The authority herein granted shall apply to such note or notes as shall have been issued on or before December 31, 1915.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of January, 1915.

DECISION No. 2118.

L. E. COLE, ET AL.

vs.

SOUTH FEATHER LAND AND WATER COMPANY.

Case No. 558.

Decided January 30, 1915.

The Commission having established a schedule of rates for water for irrigation purposes upon defendant's system, in accordance with evidence heretofore tendered, and defendant having submitted additional evidence entitling it to a larger rate than the one established by the Commission, defendant's original schedule re-established with the exception that payments shall be made semi-annually instead of in advance as was heretofore the case. Original order in all other respects to remain the same.

W. H. Carlin and J. E. Ebert, for Complainants.

C. E. McLaughlin, for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

OPINION ON REHEARING.

This is an application on behalf of South Feather Land and Water Company for rehearing on this commission's decision of June 30, 1914, in the above entitled proceeding. Evidence has been taken, argument presented and briefs filed. The parties entered into the usual stipulation that in case the commission should be of the opinion that a rehearing should be granted, the evidence and argument taken on this application shall be deemed to be the evidence and argument which would have been presented if a rehearing were granted. This procedure avoids the necessity of a second hearing.

The water company's principal contention is that the rates established by this commission will not yield the revenue to which this commission found the water company to be entitled. The rate so established is a charge of \$15.00 per miner's inch per annum on all water delivered for irrigation and domestic use, and also on all water which the water company has contracted or may hereafter contract to reserve for intending users, but which may not at the time actually be used for either of said purposes, to which charge is added a service charge of 10 cents per miner's inch per twenty-four hours for all water actually delivered by the water company for use.

This form of rate was based on the supposition that there were contracts outstanding under which the landowners agreed so pay for water held for them for future use. It now appears, however, that this is not the case. The evidence introduced on the rehearing shows that the water company has two forms of contract. In one form the water company agrees to furnish to the consumer a specified maximum number of

miner's inches of water, and the consumer is obligated only to pay for such water as he actually uses. In the other form, the water company agrees to sell and the consumer agrees to take and pay for a specified number of miner's inches of water, but an addendum provides that the sum of \$36.50 per miner's inch shall be paid only for the water used, and that for additional water held but not used the sum of \$1.00 per acre shall be paid annually. The evidence on the rehearing shows that the provision for the payment of \$1.00 per acre per annum for water not used has never been enforced and is a dead letter.

Counsel have ably argued and briefed the question whether a water utility has the legal right to contract to hold for an intending consumer water not immediately used, on the consumer's payment of an annual rental for such holding. It is not necessary, however, to discuss this important question in this case, for the reason that in the present case there are no contracts outstanding under which the consumer pays an annual charge for water not used.

The evidence further shows that although the safe minimum yield of the system at the canal heading is 1,200 miner's inches, and although 430 inches, an abnormally large amount, are at present lost in transmission, leaving a net yield of 770 miner's inches, only 333.8 miner's inches were actually used in 1913. Hence, without any reduction in the losses, over 400 miner's inches would seem to be now available for additional consumption, as claimed by the water company. Under these circumstances, it seems obvious that no one familiar with the facts would pay the water company to hold water for him, even if such contracts were held to be legal, when he can secure from the present surplus such water as he needs, at any time, by simply paying the regular rates for water.

Defendant publicly takes the position that all water under its control is devoted to a public use and that any prospective consumer can secure water by merely signing an application and paying the established rates.

Eliminating this source of revenue from lands not now using water would entail a loss of \$4,920.00 in revenue. The commission found that if an allowance of \$8,000.00 per annum were made for return on the value of the property, the water company would be entitled to an annual revenue of \$15,774.00, but that the water company's revenue under the old rates in 1913 was only \$12,178.98. Considering the losses in revenue herein indicated, it is clear that the rate established by this commission on the evidence introduced at the original hearing can not stand.

The water company states that it does not expect a return on the full value of its property and that it will be satisfied with a return to the old rate, which was \$36.50 per miner's inch of continuous flow, payable

annually in advance. While under the evidence now before this commission, this rate must be restored, I am of the opinion that the payment of the entire year's rate in advance is unfair to the consumer. The order will provide for payment in two equal semiannual installments.

A general impression seems to have prevailed among landowners under the water company's system that they must sign a contract and pay for a water right before they can secure water. The water company insists that the payments so demanded were for pipe or other matters, but the evidence clearly shows cases which can be nothing other than payments for water rights. The water company's attorney, however, has advised the company that it can not legally exact a charge for a water right and the company's general manager in a public hearing before this commission stated that it is not the company's present policy to exact any such charge. It is of considerable importance to landowners to know that in order to secure water, up to the reasonable capacity of the system, they need only sign the regular application blank and need not sign a contract or pay for a water right.

The order of June 30, 1914, in so far as it refers to the delivery of water to A. Henrici, Miss Barbara Wenck and other landowners in the Constadt Tract should stand.

I submit the following form of order:

ORDER.

South Feather Land and Water Company, defendant herein, having petitioned for a rehearing on this commission's order of June 30, 1914, and evidence and argument having been presented and the parties having stipulated that said evidence and argument should be considered as being the evidence and argument to be considered by the Railroad Commission, if the commission should find that a rehearing should be granted, and the commission finding that a rehearing should be granted and that the alterations hereinafter set forth should be made in its said order of June 30, 1914,

It is hereby ordered that South Feather Land and Water Company file with the Railroad Commission within twenty days from the date of this order a rule or regulation providing for the payment of water rates in two equal installments payable at the times specified in such rule or regulation.

It is further ordered that South Feather Land and Water Company be and the same is hereby ordered to deliver at its own expense water at its regular rates to A. Henrici, Barbara Wenck, and any other landowner in the Constadt Tract to whom the defendant has heretofore failed after demand to continue the delivery of water, but only after such person shall have made demand for such water and agreed to pay the rates herein established.

It is further ordered that in other respects the complaint in the above entitled proceeding is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 30th day of January, 1915.

DECISION No. 2119.

HOME TELEPHONE AND TELEGRAPH COMPANY OF SANTA BARBARA
vs.
THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 522.

Decided February 1, 1915.

Complainant, operating a telephone exchange system in the city of Santa Barbara and adjacent territory, alleges that the rates of defendant, engaged in operating a utility of a like nature, are discriminatory and unduly low and so established by defendant for competitive purposes with a view to forcing complainant out of business. Defendant while admitting that its rates in this territory are not compensatory, contends that the Commission has no jurisdiction to grant the relief prayed for by complainant.

Held, That the Commission has no jurisdiction over the matters complained of: (1) Because the city of Santa Barbara has not transferred, by special election, control of its utilities to this Commission, and the Commission accordingly has no jurisdiction over rates within such city limits; (2) that to eliminate the discrimination complained of would necessitate either an order directing an increase in the lower rate or a decrease in the higher rate, which order the Commission is powerless to make for reasons stated above; furthermore, section 60 of the Public Utilities Act does not provide that one utility may bring into question the rates of a like utility, especially when such complainant is not even in the position of a patron of the utility complained of. Complaint accordingly dismissed without prejudice to its renewal by proper parties if this Commission shall, in the future, be empowered with the necessary jurisdiction within the city limits of Santa Barbara.

Held, Defendant's attention drawn to the fact that rates voluntarily established by a utility can not but be deemed just and reasonable and that their schedule of voluntarily established rates in the city of Santa Barbara shall be considered for such purposes as may be deemed advisable in connection with future rate fixing inquiries.

Richards and Carrier, for Complainant.

H. D. Pillsbury, James T. Shaw and Felix T. Smith, for Defendant.

W. P. Butcher, city attorney, for City of Santa Barbara.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This case involves the rates charged by The Pacific Telephone and Telegraph Company for telephone service in the city of Santa Barbara.

The complaint alleges, in effect, that complainant and defendant is each a telephone corporation engaged in conducting a general telephone business in the city of Santa Barbara and the territory adjacent thereto; that subscribers to defendant's telephone exchange in the city of Santa Barbara may converse not only with persons resident in the city of Santa Barbara, but also with two exchanges known as the Montecito and the Carpinteria exchanges and with persons living in the Santa Barbara exchange outside the city limits; that complainant maintains a central exchange in the city of Santa Barbara and that its telephones are connected with certain territory lying outside the city limits of Santa Barbara, including the Montecito exchange and the Goleta exchange; that prior to August, 1908, defendant's predecessor charged as monthly rentals for business telephones in the city of Santa Barbara the sum of \$4.00 for main line telephones and \$3.00 for two party line telephones and for residence telephones the sum of \$3.00 for main line telephones and \$2.00 for two party line telephones, but that since said date defendant's predecessor and defendant itself have been reducing the monthly rentals for residence telephones, so that since August, 1908, the monthly rental for main line residence telephones has been reduced to \$1.00 and for two party line residence telephones to 75 cents; that on October 1, 1913, defendant had connected with its central exchange in the city of Santa Barbara 1,936 telephones; that in certain other designated exchanges in California defendant is charging for telephone service monthly rates for both business and residence telephones in excess of those charged in Santa Barbara; that plaintiff has 2,920 telephones connected with its central exchange in the city of Santa Barbara and that its monthly rental for business telephones is \$3.00 for main line telephones and \$2.25 for two party line telephones and its monthly rental charge for residence telephones is \$2.00 for main line telephones and \$1.50 for two party line telephones; that ever since 1903 plaintiff has in good faith been engaged in the general telephone business in the city of Santa Barbara; that the expense of maintenance and operation of defendant's telephone exchanges specifically mentioned in the complaint is not greater than similar expenses in connection with defendant's Santa Barbara exchange; that the rates charged by defendant are unreasonable, injurious and discriminatory as against the complainant, and do not yield an income to the defendant sufficient for the maintenance and carrying on of its business in the city of Santa Barbara but have been fixed for the purpose of and with the intention to destroy complainant's business, and by unfair and injurious competition to compel complainant to abandon the telephone business in the city of Santa Barbara and vicinity, and with the intent to destroy competition with itself

in the city of Santa Barbara. Complainant asks that defendant be cited to appear before the Railroad Commission and "that the rates of the defendant to be charged in the city of Santa Barbara be fixed by this Commission, and that the discriminatory rates of the defendant in the city of Santa Barbara be prohibited."

The defendant, in its answer, challenges the jurisdiction of the Railroad Commission to entertain the complaint on the ground that this is not a complaint on the Commission's own motion, nor is it signed by the mayor or president or chairman of the board of trustees or a majority of the council, commission or other legislative body of Santa Barbara or by twenty-five consumers or purchasers or prospective consumers or purchasers of telephone service, as provided in section 60 of the Public Utilities Act, referring to complaints as to the reasonableness of public utility rates.

Defendant further denies that its rates are unreasonable, injurious and discriminatory, or unreasonable or injurious or discriminatory as against complainant, or at all; admits, in effect, that its rates do not yield a sufficient income for carrying on its business in Santa Barbara, but contends that complainant can not raise this point; denies that its rates in Santa Barbara and vicinity have been fixed for the purpose of destroying complainant's business, but alleges that they have been reduced for the purpose of protecting its property and business in the city of Santa Barbara and vicinity from the competition of complainant; alleges that this Commission's jurisdiction to establish telephone rates in Santa Barbara is confined to rates for service between points within the incorporated city of Santa Barbara and points outside said limits, or between two or more points, both of which are outside the city limits, and that the rate fixing power invoked by the complainant's prayer rests with the governing body of the city of Santa Barbara; denies that discriminatory rates exist in the city of Santa Barbara; and avers that in so far as differences in rates between Santa Barbara and other points may be concerned, these differences rest on differences in circumstances involved in this case, entirely traceable to complainant and complainant's own acts, in particular complainant's invasion of a field already served by defendant's predecessor. Defendant asks that the complaint be dismissed.

A public hearing was held before Commissioner Eshleman in Santa Barbara on March 9, 1914. At this hearing certain evidence was introduced by complainant, but defendant rested its case without the introduction of any evidence, insisting that the Commission has no jurisdiction to grant the relief asked for in the complaint. The city of Santa Barbara appeared through its city attorney and also urged

that the Commission has no jurisdiction to grant the relief prayed for. The case was submitted on briefs, which have now been filed.

Under order of this Commission on January 2, 1915, and on written consent of all the parties on file herein, the preparation of the opinion and order herein was transferred from Commissioner Eshleman to myself.

As will be observed from the foregoing statement of facts, the complainant asks relief under two heads: (1) that the rates of defendant to be charged in the city of Santa Barbara shall be fixed by this Commission, and (2) that the discriminatory rates of the defendant in the city of Santa Barbara be prohibited. The relief first asked involves the reasonableness of rates. The relief second asked involves the entirely different question of discrimination in rates. I shall consider these matters separately.

Complainant first asks this Commission to establish the rates charged by defendant for telephone service in the city of Santa Barbara. Defendant contends that the Commission has no jurisdiction to proceed under this head, and in this connection relies on section 60 of the Public Utilities Act, reading in part as follows:

"Complaint may be made by the Commission of its own motion or by any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public utility including any rule, regulation or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation of any provision of law or of any order or rule of the Commission; provided, that no complaint shall be entertained by the Commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water or telephone corporation, unless the same be signed by the mayor or the president or chairman of the board of trustees or a majority of the council, commission, or other legislative body of the city and county, or city or town, if any, within which the alleged violation occurred, or not less than twenty-five consumers or purchasers or prospective consumers or purchasers, of such gas, electricity, water or telephone service."

Under this section, it would seem that defendant's point, in so far as it refers to the question of the reasonableness of the rates charged by the defendant, is well taken. This complaint was not made by this Commission on its own motion nor was it signed by the mayor of Santa Barbara or by a majority of the city council or by twenty-five consumers or purchasers or prospective consumers or purchasers of telephone service. The complaint is signed solely by a rival telephone company which, in so far as the pleadings show, is not even a patron

of the defendant. Complainant relies in this connection on section 62 of the act, providing, in effect, that "any public utility shall have a right to complain on any of the grounds upon which complaints are allowed to be filed by other parties." This provision, however, can not be regarded as overruling the specific provisions of section 60 with reference to complaints attacking the reasonableness of the rates of the classes of public utilities therein designated.

I am of the opinion, furthermore, that, entirely independent of this ground, this Commission does not have jurisdiction to grant the relief asked under the first head. The relief asked is that this Commission establish the rates to be charged by defendant in the city of Santa Barbara. The city of Santa Barbara has not voted to confer upon this Commission its powers over public utilities, and accordingly continues to have the right to establish the rate for telephone service rendered within its limits from and to points therein. While it may be a difficult matter to segregate the rates to be charged for service within the city of Santa Barbara as distinguished from the broader area of defendant's Santa Barbara exchange, the relief which complainant had in mind and which is asked in its complaint, is that this Commission establish the rates charged by defendant "in the city of Santa Barbara." Until the legislature chooses, if it so desires, to enact additional legislation under the provisions of section 23 of article XII of the constitution of this state, as amended on November 3, 1914, the Railroad Commission has no jurisdiction to grant this relief.

I turn now to a consideration of the second head of the complaint, referring to alleged discrimination in rates. Complainant asks under this head "that the discriminatory rates of the defendant in the city of Santa Barbara be prohibited." Section 60 of the Public Utilities Act does not apply to the complaint viewed in this aspect, for the reason that the provisions of section 60 with reference to the number of complainants refer only to complaints against the reasonableness of rates and not to complaints based on alleged discrimination in rates.

Complainant relies, in the first instance, on chapter 276 of the Laws of 1913 (Statutes of 1913, p. 508), generally referred to as the "unfair competition statute." While this statute makes unlawful certain acts which are termed unfair competition and unfair discrimination, this Commission is not the proper forum within which to seek relief under this statute. The act provides that the attorney general of California may prosecute an action in the name of the people of California to annul the charter or revoke the license of a corporation violating the statute, makes contracts in violation of the statute illegal, provides for actions at law to recover damages on behalf of persons, firms and corporations which may have suffered injury, and declares that persons who

violate section 1 of the act shall be guilty of a misdemeanor and punishable by fine or imprisonment. While all these remedies are provided, no remedy before the Railroad Commission is provided and this Commission has no jurisdiction to entertain proceedings under this statute.

Complainant next relies on sections 19 and 32 of the Public Utilities Act. Section 19 reads as follows:

“No public utility shall, as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service. The Commission shall have the power to determine any question of fact arising under this section.”

Section 32 (a) reads as follows:

“Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that the rates, fares, tolls, rentals, charges or classifications, or any of them, demanded, observed, charged or collected by any public utility for any service or product or commodity, or in connection therewith, including the rates or fares for excursion or commutation tickets, or that the rules, regulations, practices or contracts, or any of them, affecting such rates, fares, tolls, rentals, charges or classifications, or any of them are unjust, unreasonable, discriminatory or preferential, or in any wise in violation of any provision of law, or that such rates, fares, tolls, rentals, charges or classifications are insufficient, the Commission shall determine the just, reasonable or sufficient rates, fares, tolls, charges, classifications, rules, regulations, practices or contracts to be thereafter observed and in force, and shall fix the same by order as hereinafter provided.”

Under these sections, this Commission is given jurisdiction to entertain complaints concerning discriminations of the character therein specified, including discriminations between localities. If the Commission finds that discrimination exists, the appropriate relief is an order directing the utility to remove the discrimination. If the discrimination is one affecting rates, it can be removed either by increasing the lower or by decreasing the higher rate. If the localities between which the discrimination is alleged to exist are cities which have not relinquished to this Commission their power to establish utility rates of the character in question, it seems difficult to understand how this Commission can secure jurisdiction under the head of discrimination. If in a given city the Commission has no power to raise or lower a utility rate, the conclusion would seem inevitably to follow that it has no power to make an order which can be carried into effect only by

increasing or lowering that rate. This conclusion was clearly intimated by this Commission in *City of Pasadena vs. Southern California Edison Company* (Vol. 1, Opinions and Orders of the Railroad Commission of California, p. 801). In the present case, the Commission has no power to establish rates in the city of Santa Barbara, one of the communities concerning which the comparison is made, nor does it have jurisdiction to establish telephone rates in most of the other cities which are referred to in the complaint herein.

Complainant urged at the hearing, and draws attention to the fact in its brief, that the area of defendant's Santa Barbara exchange extends beyond the city limits, so that with reference to conversations between points in the city of Santa Barbara and points in the territory in the exchange outside of the city limits, this Commission has jurisdiction to establish rates. However, this service is relatively unimportant as compared with the service between points within the city and the prayer of the complaint shows that the real relief which complainant had in mind was either the establishment of rates to be charged "in the city of Santa Barbara" or the indirect accomplishment of the same end by the removal of defendant's alleged discriminatory rates "in the city of Santa Barbara." Until the legislature enacts the necessary additional legislation, if it desires so to do, this Commission is without jurisdiction to grant the relief thus requested.

Certain propositions presented by complainant are clearly indisputable. One of these propositions is that defendant has no right to charge the people of Santa Barbara unreasonably low telephone rates and then recoup itself for its losses in the Santa Barbara territory by charging people in other communities unreasonably high telephone rates. It is also a well established principle in public utility regulation that if a utility voluntarily establishes a rate, this rate must be regarded as *prima facie* reasonable. These principles will undoubtedly have a vital bearing in proceedings which may hereafter be filed before this Commission but can not be considered in the present case, for the reason that this Commission is without jurisdiction to give the relief asked.

I recommend that the complaint be dismissed, without prejudice to the right of a proper complainant or complainants to file a new complaint if this Commission should hereafter secure jurisdiction over telephone rates in the city of Santa Barbara.

I submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, and briefs having been filed and the case being now ready for decision,

It is hereby ordered that the complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of February, 1915.

DECISION No. 2120.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA
GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF
CERTAIN PROMISSORY NOTES.

Application No. 1460.

Decided February 1, 1915.

Applicant authorized to renew for a period not to exceed one year twelve promissory notes of an aggregate face value of \$66,007.89.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

Southern California Gas Company having applied to this Commission for authority to issue notes for a period not to exceed one year in renewal of the following list of outstanding notes:

| Payee | Date | Amount | Interest rate | Maturity |
|---|----------------|------------|---------------|---------------|
| Farmers Exchange National Bank, S. B. American Meter Company (formerly C. H. Diekey & Company)..... | Aug. 28, 1914 | \$5,000 00 | 7 per cent | Nov. 28, 1914 |
| Pittsburgh Valve, Foundry and Construction Company..... | Sept. 1, 1914 | 10,000 00 | 5 per cent | Dec. 1, 1914 |
| Pittsburgh Valve, Foundry and Construction Company..... | Oct. 5, 1914 | 2,330 55 | 6 per cent | Jan. 3, 1915 |
| H. R. Boynton Company..... | Dec. 3, 1914 | 2,000 00 | 6 per cent | Mar. 7, 1915 |
| H. R. Boynton Company..... | Sept. 8, 1914 | 1,000 00 | 6 per cent | Dec. 8, 1914 |
| H. R. Boynton Company..... | Sept. 30, 1914 | 1,621 94 | 6 per cent | Dec. 30, 1914 |
| H. R. Boynton Company..... | Oct. 3, 1914 | 1,269 52 | 7 per cent | Jan. 3, 1915 |
| W. K. Mitchell & Company..... | Nov. 5, 1914 | 6,100 00 | 6 per cent | Feb. 5, 1915 |
| C. & G. Cooper Company..... | Nov. 28, 1914 | 10,000 00 | 6 per cent | Feb. 26, 1915 |
| C. & G. Cooper Company..... | Nov. 28, 1914 | 10,000 00 | 6 per cent | Feb. 26, 1915 |
| C. & G. Cooper Company..... | Nov. 28, 1914 | 11,745 88 | 6 per cent | Feb. 26, 1915 |
| C. & G. Cooper Company..... | Nov. 28, 1914 | 5,000 00 | 6 per cent | Feb. 26, 1915 |

and a hearing having been held and it appearing that the purposes for which the notes above listed and which it is now proposed to refund were issued are not in whole or in part reasonably chargeable to operating expenses or income,

It is hereby ordered that Southern California Gas Company be granted authority and it is hereby granted authority to issue promissory notes in like amount to the same payees at not more than the same rate of interest to refund the following list of outstanding notes:

| Payee | Date | Amount | Interest rate | Maturity |
|---|----------------|------------|---------------|---------------|
| Farmers Exchange National Bank, S. B. American Meter Company (formerly C. H. Dickey & Company)..... | Aug. 28, 1914 | \$5,000 00 | 7 per cent | Nov. 28, 1914 |
| Pittsburg Valve, Foundry and Construction Company..... | Sept. 1, 1914 | 10,000 00 | 5 per cent | Dec. 1, 1914 |
| Pittsburg Valve, Foundry and Construction Company..... | Oct. 5, 1914 | 2,330 55 | 6 per cent | Jan. 3, 1915 |
| H. R. Boynton Company..... | Dec. 3, 1914 | 2,000 00 | 6 per cent | Mar. 7, 1915 |
| H. R. Boynton Company..... | Sept. 8, 1914 | 1,000 00 | 6 per cent | Dec. 8, 1914 |
| H. R. Boynton Company..... | Sept. 30, 1914 | 1,621 94 | 6 per cent | Dec. 30, 1914 |
| H. R. Boynton Company..... | Oct. 3, 1914 | 1,209 52 | 7 per cent | Jan. 3, 1915 |
| W. K. Mitchell & Company..... | Nov. 5, 1914 | 6,100 00 | 6 per cent | Feb. 5, 1915 |
| C. & G. Cooper Company..... | Nov. 28, 1914 | 10,000 00 | 6 per cent | Feb. 26, 1915 |
| C. & G. Cooper Company..... | Nov. 28, 1914 | 10,000 00 | 6 per cent | Feb. 26, 1915 |
| C. & G. Cooper Company..... | Nov. 28, 1914 | 11,745 88 | 6 per cent | Feb. 26, 1915 |
| C. & G. Cooper Company..... | Nov. 28, 1914 | 5,000 00 | 6 per cent | Feb. 23, 1915 |

It is further ordered that Southern California Gas Company be granted authority and it is hereby granted authority to issue renewal notes for these herein authorized to be issued on the condition that the notes herein authorized to be issued and the renewal notes or any of said notes shall mature not later than January 31, 1916.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) On the twenty-fifth day of each month the applicant shall report to this Commission the note or notes issued during the previous month, the note or notes refunded by such issue and the terms and conditions of the note or notes issued under this order.

(2) The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

(3) The authority herein granted shall apply to such note or notes as shall have been issued on or before January 31, 1916.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of February, 1915.

DECISION No. 2121.

E. D. PORTER ET AL.

vs.

FRESNO CANAL AND IRRIGATION COMPANY.

Case No. 651.

Decided February 3, 1915.

Complainants, composed of a number of farmers receiving water for irrigation purposes from what is known as the Temperance Colony Ditch supplied by defendant company, petitions the Commission to compel defendant to take over, put in good working order and operate this ditch so as to secure to them a more equitable and adequate supply of water.

Held, That it would be unfair to compel defendant to assume this additional burden without providing an adequate revenue covering the additional costs of operation and necessary repairs. Defendant directed to take over and operate the ditch and laterals serving complainants, provided they file signed agreements from 75 per cent of consumers along such ditch to agree to pay the following charges for such service: 85 cents per acre for first and second year, 50 cents per acre for third and fourth years and 25 cents per acre thereafter.

E. D. Porter, for Complainants.

W. A. Sutherland, for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is a complaint to compel Fresno Canal and Irrigation Company to take over the control of certain lateral ditches under its system and thereafter to maintain and operate the same.

The complaint alleges in effect that complainants are landowners in sections 33 and 34, township 13 south, range 21 east, M. D. B. and M.; that defendant is a public utility water corporation; that defendant has contracted under certain water right agreements to deliver water to complainants and that they secure their water from a branch or lateral ditch (known as Temperance Colony ditch) which takes water from defendant's Church ditch at a point in section 35 in said township and range; that complainants all receive water through the Temperance Colony ditch; that there has never been a permanent organization of the water users so as to secure an equitable distribution of the water; that complainants can not effect such organization and that they desire that defendant be directed to take over the management and control of the Temperance Colony ditch and thereafter to make a fair and equitable distribution of the water; that complainants desire that the Railroad Commission make such provision for the payment to the defendant of the expense incurred as may be just and necessary and that this expense be assessed against the land of all persons having water right agreements applying to said sections 33 and 34; that complainants ask that defendant be directed to enlarge and repair the

Temperance Colony ditch; that as the water is now distributed some persons securing water from this ditch secure more than their share while others can not secure enough water to irrigate their crops; and that if defendant is required to take over the management and control of the ditch, enough water will be supplied to all persons. Complainants ask that this Commission require defendant to take over the management and control of the Temperance Colony ditch and to make appropriate provision for payment to the defendant for its services.

The answer denies that it is impossible to effect an organization among the landowners themselves for the distribution of the water; alleges that the Temperance Colony ditch has continuously been owned by the landowners and operated by them; alleges that the proper maintenance and control over the Temperance Colony ditch and the distribution of water therefrom would cost at least 75 cents per acre for all the lands entitled to water for irrigation from said ditch, and that a large number of landowners object to the payment of any compensation to defendant for the service requested, and that it would be necessary for defendant to conduct expensive court proceedings to collect such compensation as this Commission might establish for said service. Defendant asks that the complaint be dismissed.

A public hearing was held in Fresno on January 26, 1915.

The evidence shows that complainants receive their water from Fresno Canal and Irrigation Company under certain so-called water right agreements between the irrigation company and the predecessors of complainants in the ownership of the land in said sections 33 and 34. These lands are located some six or seven miles east of Fresno. The agreement covering section 33 provides that in consideration for the payment of \$3,200.00, the irrigation company agrees to deliver all the water which may be required, not exceeding at any time four cubic feet of water per second for the irrigation of the section. The irrigation company agrees to place a suitable box or gate in the bank of the main canal, or a branch thereof, at the most convenient point for the conveyance of water to the land. The agreement continues in part as follows:

"The party of the second part (the landowner) will construct a ditch from said box or gate to said land, at his own risk, cost and expense; and it is covenanted and agreed that the ditch so constructed shall be a branch ditch of said company, and be under the control thereof, and that said company shall have the right to use and enlarge said ditch provided such use shall not interfere with the flow of water to said land; and the party of the second part hereby grants to the party of the first part the right of way to convey water through any of his lands situate in said township to contiguous lands."

The landowner agrees for himself and all subsequent owners of the land to pay to the irrigation company on the first Monday in September

of each year the sum of \$400.00, which is the equivalent of 62½ cents per acre.

The agreements covering section 34 are substantially similar to the one covering section 33, except that the annual charge is 18¾ cents per acre.

Acting under these agreements the irrigation company constructed a box or gate in the bank of its Church ditch in section 35 and the landowners constructed and have continuously maintained and operated the Temperance Colony ditch and all the laterals to reach their respective lands. The cleaning of the various laterals has been left to the individual landowners and they have distributed the water among themselves as best they could.

The complainants urge that certain of the laterals should be widened and deepened; that a portion of the laterals have not been properly cleaned and that one central authority should be made responsible for cleaning all the ditches; that a certain wastegate located on a lateral called the "A" ditch has been opened at times to prevent the flooding of lands and that landowners living beyond have thus been deprived of their water; and that there has been no system in the distribution of the water, with the result that the landowners living near the end of the laterals have received little or no water.

The irrigation company expressed, at the hearing, a willingness to assume the management and operation of these laterals, but urged that many of the landowners would refuse to pay any compensation for this service and stated that it was unwilling to do anything unless some means were provided in advance for the payment or compensation for this service, without the necessity of law suits to collect from unwilling landowners. It seems that the lands of some of the landowners in these two sections are subirrigated from the irrigation company's canals or from certain laterals and that these landowners, in a spirit of selfishness, care not whether the less fortunate owners at a greater distance receive water or not.

Mr. I. Teilman, the irrigation company's general manager, presented an estimate of the cost of placing the Temperance Colony ditch in condition to carry water properly and of thereafter maintaining and operating the ditch. This estimate is as follows:

CLEANING DITCHES.

| | |
|---|----------|
| Enlarging main lateral from main canal to west line of section 35, 1½ miles | \$125 00 |
| Main lateral from west line of section 35, to junction at southeast corner of E. A. Forthcamp's Tract, ½ mile | 40 00 |
| Lateral "A" from middle north and south line of section 34, west 1 mile in section 33 | 75 00 |
| Lateral "B" to northeast corner of C. M. Howard Tract, ½ mile | 50 00 |
| Lateral "C" to northeast corner of W. J. Woodfin Tract | 40 00 |
| Lateral "D" in west half of section 35, to southerly and west to east line of section 34, ¼ mile | 40 00 |
| | <hr/> |
| | \$370 00 |

CONSTRUCTING STRUCTURES.

| | | | |
|----|-------|--------------------------|----------|
| 4 | cross | gates, 6x6x3, at \$30.00 | \$120 00 |
| 9 | side | gates, 2x4x2, at \$10.00 | 90 00 |
| 4 | side | gates, 4x4x3, at \$20.00 | 80 00 |
| 11 | cross | gates, 4x6x3, at \$28.00 | 308 00 |
| 5 | side | gates, 4x6x3, at \$20.00 | 100 00 |
| 15 | side | gates, 2x4x2, at \$10.00 | 150 00 |

Mr. Teilman also testified that the present wasteway on the "A" lateral should be removed to the end of the "A" lateral and then serve both the "A" and the "B" laterals, but made no estimate of the cost, for the reason that the price to be paid for the right of way is uncertain.

On the basis of 1,280 acres to be served, Mr. Teilman estimated a cost of \$1.00 per acre for the more or less permanent work of cleaning the ditches and building structures, except the wasteway, which cost he distributed over two years. To this cost he added an annual charge of 35 cents per acre for ditchtender and 15 cents per acre for upkeep after the first two years. He thus estimated a charge of 85 cents per acre for the first two years and 50 cents per acre for each succeeding year.

C. H. Loveland, one of this Commission's assistant hydraulic engineers, while agreeing in general with Mr. Teilman, estimated a charge which on the basis of 1,280 acres would amount to 95 cents per acre during the first year, 55 cents for the next two years and 27 cents per year thereafter. This estimate is based on the assumption that as the landowners become accustomed to a regular systematic delivery of water, the services of a ditchtender can gradually be eliminated.

I am convinced that in order to secure a proper distribution of water on these sections the changes suggested by these engineers should be made.

This case presents the question whether it is not the duty of Fresno Canal and Irrigation Company, under its water right agreements, to take control of the privately owned laterals and operate and maintain the same. Whatever decision may ultimately be reached on this point, it is clear that if this duty rests on the irrigation company, the compensation received by the company must be sufficient to cover the service. In the present case the rate of 18 $\frac{3}{4}$ cents per acre for water in section 34 and the rate of 62 $\frac{1}{2}$ cents per acre in section 33 are obviously not high enough to include compensation for the additional service now demanded from the irrigation company. Hence in the present case the irrigation company will not be directed to perform this service unless it is properly compensated.

In my opinion, the public interest will be best served by having the irrigation company ultimately operate and maintain all the laterals under its system. It is at times difficult for farmers to induce their

neighbors to keep their ditches clean and to permit a fair and equitable distribution of the water. Only too frequently the failure of one farmer to clean his ditches results in suffering to the others and the action of the consumers near the heads of the laterals frequently results in a failure of the consumers at the ends of the laterals to secure their fair share of the water. All parties concerned—the irrigation company, the consumers and this Commission—should give serious consideration to this problem, and whatever action is taken in the meantime should be in harmony with the ultimate solution of the problem.

In the present case it appears that a number of landowners do not want the irrigation company to take control of the laterals unless it be done without expense to them, and that they may resist payment. It would be manifestly unfair to direct the irrigation company to perform this work unless there is a reasonable prospect that the company will be paid for it. Hence an order will issue directing the irrigation company to assume control of the laterals and thereafter to maintain and operate them, but only when complainants shall have presented an agreement signed by the owners of 75 per cent of the 1,280 acres of land affected, agreeing to pay the actual cost, not to exceed 85 cents per acre for the first two years, 50 cents during the third and fourth years and 25 cents during each subsequent year, and when the Commission has issued a supplemental order to this effect.

Whatever may be done in the present case, the complainants will have the satisfaction of knowing that they have helped to advance materially the ultimate solution of this problem.

I submit the following form of order:

ORDER.

A public hearing having been held in the above entitled case and the matter being now ready for decision,

It is hereby ordered that Fresno Canal and Irrigation Company be and the same is hereby directed to take control of the Temperance Colony ditch and its branches and to operate and maintain the same and in connection therewith to build the structures and perform the work testified to by Mr. I. Teilman as set forth in the opinion which preceded this order, other than the construction of the wasteway, and to collect therefor the actual cost, not to exceed 85 cents per acre during the first two years, 50 cents per acre during the third and fourth years and 25 cents per acre annually thereafter;

Provided, however, that this order shall not become effective until complainants shall have filed with the Railroad Commission an agreement signed by the owners of 75 per cent of the 1,280 acres affected agreeing to pay to Fresno Canal and Irrigation Company the compen-

sation hereinbefore set forth, and until the Railroad Commission has issued a supplemental order specifying that such agreement, satisfactory to the Commission, has been filed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of February, 1915.

DECISION No. 2122.

IN THE MATTER OF THE APPLICATION OF HUMBOLDT TRANSIT COMPANY FOR AUTHORITY TO EXECUTE A NOTE IN THE AMOUNT OF TWENTY THOUSAND DOLLARS.

Application No. 699.

Decided February 3, 1915.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission having, on September 3, 1913, made an order in this proceeding authorizing applicant to issue a demand note of the face value of \$20,000.00, with interest at the rate of 7 per cent per annum, payable to the First National Bank of Eureka, and secured by \$40,000.00 face value of applicant's first mortgage 5 per cent bonds, this note to be issued to take up a similar note held by said bank, and applicant having issued a note in accordance with said order, and applicant having now asked authority to take up said note by issuing to said First National Bank of Eureka a note of the face value of \$20,000.00, bearing interest at the rate of 7 per cent per annum, payable one day after date, secured by \$40,000.00 face value of applicant's first mortgage 5 per cent bonds, William Butterworth, president of Humboldt Transit Company, to be a joint maker with applicant on said note, and the Commission being of the opinion that a supplemental order should issue as requested,

It is hereby ordered that Humboldt Transit Company be and it is hereby authorized to issue to the First National Bank of Eureka a promissory note in which applicant and William Butterworth are joint makers, said note to be of the face value of \$20,000.00 payable one day after date and bearing interest at a rate of not more than 7 per cent per annum, said note to be secured by \$40,000.00 face value of applicant's first mortgage 5 per cent bonds upon the following conditions, and not otherwise, to wit:

1. Said note shall be issued to take up a note of the same face value issued by applicant to the First National Bank of Eureka in

accordance with the order of this Commission made in this proceeding on September 3, 1913.

2. Humboldt Transit Company shall report to this Commission the fact of the execution of the note herein authorized to be issued and the date thereof.

3. The authority herein given to issue said promissory note shall apply only to such note as may have been issued prior to April 1, 1915.

Dated at San Francisco, California, this 3d day of February, 1915.

DECISION No. 2123.

CHARLES E. WARREN AND HERBERT PASH
vs.
PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 727.

Decided February 3, 1915.

Complainants, desiring electric service and not being willing to accept such service under conditions proposed by defendant or in accordance with suggestions made by electrical engineers of this Commission, file a formal complaint petitioning the Commission to compel defendant company to extend its lines and deliver electric energy at the regular rates for such service.

Held, Considering the cost of necessary extensions and transformers and the probable revenues to be derived from complainants, that it would be unfair to expect defendant company to extend service entirely at its own expense. Proper apportionment of expenses outlined and defendant directed to extend its portion of such service, provided complainants agree to their share of the cost of such necessary extensions.

Charles E. Warren and Herbert Pash, in propria persona.

Charles P. Cullen, for Defendant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is a complaint by Charles E. Warren and Herbert Pash of Cupertino against the Pacific Gas and Electric Company alleging that defendant refuses to extend its lines and provide the necessary facilities to serve complainants with electric energy for lighting and power purposes.

The subject matter of the present complaint was taken up informally with the Commission on May 5, 1914, at which time Mr. Warren reported that the company had refused to supply him with electric service unless he advanced the sum of \$900.00, and also that the company had demanded from Mr. Pash an advance payment of \$629.10 before extending its lines to the points where electric energy is to be utilized on the Pash property. These advance payments were to be

refunded to Mr. Warren and Mr. Pash annually on the basis of 20 per cent of the sum of all payments made by them to the company during the year.

From evidence introduced at the hearing, the facts appear to be as follows:

Both complainants, Charles E. Warren and Herbert Pash, are orchardists owning separate orchard properties and residing on the east side of Stevens Creek adjacent to the Homestead road near Cupertino.

Charles E. Warren desires electric service for lights and a small motor for domestic pumping at his residence, which is situated about 300 feet south of a point on Homestead road approximately 600 feet east of Stevens Creek. This complainant also desires electric service for a 20 horsepower motor for irrigation pumping, which motor is to be installed at a point on the east side of Stevens Creek about 2,000 feet south of Homestead road.

Herbert Pash, in addition to requiring lights in his residence and other buildings situated some 500 feet north of a point on Homestead road about 600 feet east of Stevens Creek, desires electric service for a 20 horsepower motor to be used for irrigation pumping purposes. For a portion of each season the 20 horsepower motor above referred to will be located at a point on Stevens Creek immediately north of the Homestead road and at other times will be located at a well some 600 feet east of Stevens Creek north of and adjacent to the Homestead road. Provision for a change in the location of the motor and pumping installation on the Pash property is made necessary because of the fact that ordinarily there will be water in Stevens Creek only during the early part of the irrigating season, which necessitates considerable pumping from the well above referred to.

In the latter part of 1913 complainants applied to defendant for electric service of the character mentioned, but notwithstanding the fact that defendant did not at that time refuse to extend its lines to complainants' premises, the lines of defendant were not constructed and complainants were without electric service of any character at the beginning of the irrigating season of 1914. Fearing that electric energy would not be available for irrigation early enough in 1914 to enable complainants to do the necessary irrigating, both Mr. Warren and Mr. Pash purchased and installed gasoline engines to operate their pumps, which engines have been used by them since early in 1914. Subsequently complainants renewed their request to defendant for electric service and defendant refused to extend its lines and supply said service except upon condition that Mr. Warren advance the sum of \$900.00 or Mr. Pash advance the sum of \$629.10 which amounts defendant agreed to refund to complainants on the basis of 20 per cent of the

gross annual payments made by them for the service furnished. Complainants refused to accept service on the basis proposed by defendant and on May 5, 1914, Mr. Warren filed an informal complaint requesting that the Commission require defendant to extend its lines and to supply them with electric service.

An investigation of the complaint was subsequently made by Mr. L. S. Ready, one of the Commission's assistant electrical engineers, who recommended a basis for adjustment of the matter, which recommendation contemplated the construction by Mr. Warren and Mr. Pash at their own expense of lines located entirely upon their respective properties, and the construction by and at the expense of the company of all the lines on public highways in addition to furnishing and installing the necessary transformers and meters. Mr. Ready's suggestion was accepted by the defendant but complainants desired to have the Commission rule formally upon the matter and filed their complaint in this case.

Defendant has heretofore constructed an extension from its 11,000 volt line on Saratoga road westerly along Homestead road to a point approximately nine tenths of a mile east of the intersection of the private roads leading to complainants' residences, with Homestead road and about one mile east of the Homestead road bridge over Stevens Creek.

The cost of supplying service to complainants is estimated by defendant as follows:

| | |
|---|------------|
| Extension of 11,000 volt line on Homestead road (approximately 9/10 mile) | \$629 10 |
| Tap lines: | |
| Charles E. Warren, residence, 300 feet..... | \$58 50 |
| Charles E. Warren, power 2,500 feet..... | 258 30 |
| Herbert Pash, residence, 500 feet | 55 30 |
| Herbert Pash, power (no extension)..... | ----- |
| | 372 10 |
| Transformers and meters: | |
| Charles E. Warren, residence | \$17 25 |
| Charles E. Warren, power | 241 95 |
| Herbert Pash, residence | 6 50 |
| Herbert Pash, power | 300 40 |
| | 566 10 |
| Total estimated cost..... | \$1,567 30 |

The annual revenue as estimated by defendant is as follows:

| | | |
|------------------------------------|---------|----------|
| Charles E. Warren, residence | \$42 00 | |
| Charles E. Warren, power | 120 00 | |
| | | \$162 00 |
| Herbert Pash, residence | \$12 00 | |
| Herbert Pash, power | 120 00 | |
| | | 132 00 |
| Total estimated revenue..... | | \$294 00 |

From the facts as above stated it will be evident that when application was first made for service by complainants, defendant demanded that the cost of the extension, not including transformers, and meters, be advanced before service would be supplied. Subsequently defendant agreed to construct lines and furnish the transformers and meters, necessary to serve complainants, at an estimated cost of \$1,195.20, provided complainants would advance the cost of tap lines estimated to cost \$372.10.

From an investigation of the estimates submitted by Mr. Ready it appears that in accordance with the following recommendations the cost to be borne by the company of the main extension, transformer switches, transformers and meters installed and secondary extension along the public road to serve the complainants will be approximately as follows:

| | |
|--|------------|
| Main extension ----- | \$599 70 |
| Transformers and meters ----- | 562 90 |
| Transformer switches ----- | 40 00 |
| Secondary extension along road----- | 105 70 |
| Labor of installing transformers, transformer switches and meters----- | 78 50 |
| | <hr/> |
| | \$1,386 80 |

The extensions across private property as estimated by Mr. Ready were:

| | |
|--|----------|
| Charles E. Warren, 20 horsepower pump----- | \$262 70 |
| Charles E. Warren, house ----- | 28 60 |
| Herbert Pash, house ----- | 52 00 |

From this should be deducted the cost of the transformer switch used for Mr. Warren's plant and cost of installing transformers and switch which have been included in the above. The revised estimate of this cost is:

| | |
|---|----------|
| Extension to Charles E. Warren, 20-horsepower pump----- | \$210 60 |
| Extension to Charles E. Warren, residence ----- | 28 60 |
| Extension to Herbert Pash, residence----- | 52 00 |
| | <hr/> |
| | \$291 20 |

Mr. Ready's estimate of probable annual revenue is as follows:

| | |
|------------------------------------|----------|
| Charles E. Warren, residence ----- | \$48 00 |
| Charles E. Warren, power ----- | 120 00 |
| Herbert Pash, residence ----- | 15 00 |
| Herbert Pash, power ----- | 180 00 |
| | <hr/> |
| Total annual revenue ----- | \$363 00 |

Reference was made at the hearing to alleged discriminatory practices of defendant in extending its lines and providing the necessary facilities for furnishing electric service in the San Jose district, but inasmuch as this matter, in so far as the territory involved in this case is concerned, is now before the Commission in connection with Cases

No. 477 and No. 550, it will not be necessary to consider it separately in this proceeding. It may be well also to mention the fact that the Commission, in connection with Case No. 683, has now under investigation the general question of deposits and advance payments to secure service as well as all other forms of deposits and guarantees demanded by electric and certain other public utility corporations in California.

In view of the facts in connection with this particular case and considering the local conditions only, it would appear that the investment necessary to serve complainants with electric energy from defendant's present 11,000 volt distribution lines on Homestead road would not be immediately profitable if the entire expense were borne by defendant. On the other hand, it may be that the estimates of probable revenue are too low, and it may also be possible that defendant's revenue as a whole from this class of service in the territory under consideration would fully justify an order directing defendant to furnish the necessary facilities and to supply electric service to complainants without any additional expense to that contemplated in the rates of defendant as filed with the Commission. Owing to the fact, however, that the evidence in this case is confined to a certain proposed extension of defendant's present 11,000 volt lines on Homestead road and the furnishing of service from that source, I have considered the matter primarily as an individual local problem. From this point of view it appears that complainants should each bear a portion of the expense involved in extending the necessary lines and providing the necessary facilities to supply electric energy to the points on their respective properties where the service is to be utilized.

After a careful consideration of the evidence as presented, I find as a fact that complainants are entitled to receive service from defendant and that defendant should construct the necessary line, supply and install the necessary facilities and connections, and furnish electric energy to complainants under the conditions which are specified in the order herein.

I submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, and the case having been submitted and now being ready for decision, and the Commission finding that the directions herein given are just and reasonable,

It is hereby ordered that Pacific Gas and Electric Company, within twenty days after the completion by complainants of the construction to be done by them as hereinafter indicated, extend its 11,000 volt distribution line along Homestead road to a point half way between the two proposed pumping plants of Mr. Herbert Pash; construct all

necessary primary and secondary extensions required to serve the two pumping installations of Mr. Herbert Pash and connect its lines to the primary and secondary extensions to be constructed by the complainants as hereinafter indicated; furnish and install all transformers, transformer switches and meters required; install the transformer switch used in connection with the Charles E. Warren pumping plant so that the primary extension across Mr. Warren's private property may be disconnected from the company's lines when the plant is not in operation; and thereafter supply electric energy to complainants, subject to the following conditions precedent:

1. That Mr. Charles E. Warren shall construct or cause to be constructed all necessary primary and secondary line extensions required to connect his pumping plant and residence service to a point within one span of the proposed extension of defendant's lines.

2. That Mr. Herbert Pash construct or cause to be constructed the secondary line extension across his private property required in addition to that necessary to serve his residence were it located adjacent to the Homestead road:

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of February, 1915.

DECISION NO. 2124.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR AN ORDER GRANTING PERMISSION UNDER SECTION 63 OF THE PUBLIC UTILITIES ACT TO INCREASE THE DETENTION CHARGE PER CAR FROM FIVE DOLLARS TO TEN DOLLARS PER DAY FOR REFRIGERATION OF PERISHABLE FREIGHT FROM ALL POINTS LOCATED ON THE SOUTHERN PACIFIC COMPANY AS SHOWN IN GROUP 5 (BANNING, CALIFORNIA, AND ALL POINTS EAST THEREOF, MAIN LINE AND BRANCHES, ALSO FROM POINTS ON THE HOLTON INTERURBAN RAILWAY COMPANY) TO ALL POINTS IN CALIFORNIA AS SHOWN UNDER SECTION 7, SUPPLEMENT 12, TO C. R. C. NO. 1601, SOUTHERN PACIFIC COMPANY'S TARIFF NO. 359-D.

Application No. 1447.

Decided February 4, 1915.

Applicant applies for permission to increase its charge for re-icing detained cars from \$5.00 to \$10.00, contending that the present charge does not cover the actual cost of ice necessary to replenish bunkers of cars detained by shippers over the first day. After review of evidence submitted, in connection with which exception is taken to applicant's figures which allow full commercial freight rates on

ice instead of the customary rates for company material, claiming that such ice is hauled for an outside agency when in reality such agency is owned by the carriers themselves, that applicant has made sufficient showing to entitle it to the increase applied for, application granted.

Geo. D. Squires, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, Commissioner.

This is an application of the Southern Pacific Company under section 63 of the Public Utilities Act for permission to increase the detention charge for refrigeration of perishable freight originating at points Banning, California, and east thereof, main line and branches, also points on the Holton Interurban Railway Company to all points in California, from \$5.00 to \$10.00 per day.

More properly speaking, it is an increased charge to be imposed on shippers to cover additional ice necessary to properly refrigerate shipments in cases where cars are furnished fully iced and either not completely loaded or if so loaded are not forwarded on the last freight train of the day car is furnished for loading, the additional ice being necessary to preserve the shipment until the next train of the following day.

For example, a refrigerator car for loading cantaloupes is furnished fully iced at 10 a.m. The first melon train is due to leave the Imperial Valley at 5 p.m., and the last at 2 a.m. If the shipper either fails to complete loading or if loading is completed and shipper fails to give the carrier shipping instructions the car must remain at the loading point until at least 5 p.m. the following day. As the cantaloupe crop moves almost entirely during the months of June and July and the weather is excessively hot in the Imperial Valley during this period, it is necessary, for the proper preservation of the cantaloupes, to replenish the ice supply.

The applicant urges that the charge of \$5.00 per day for replenishing the ice in bunkers does not cover the actual cost of the additional ice used, due to this car detention, and points to the fact that a charge of \$10.00 per day is made on interstate shipments, which has never been complained of as being excessive.

I can readily see where a charge of \$10.00 per day for car detention on interstate shipments as against a charge of \$5.00 per day on intrastate shipments will cause complications to arise, for, if a car be originally consigned to an intrastate point and a charge for \$5.00 per day collected for car detention and this car is diverted en route to an interstate point—which it was testified is frequently done—the charge is automatically increased to \$10.00 per day.

Of course, the maintenance of two rates for the same service is a discrimination which can be as readily removed by lowering the higher

of the two rates. The record shows that 3,391 cars of perishable freight moved from the Imperial Valley during the season of 1913 and that of this number 2,997 cars, or 88 per cent, moved to interstate points and 394 cars, or 12 per cent, moved to intrastate points.

Of the cars detained and being subject to the detention charge 750 were destined to interstate points and 176 to intrastate points, and if the discrimination were removed by reducing the interstate charge to \$5.00 per day the carriers would lose \$3,750 per annum, while the advance on intrastate shipments to \$10.00 per car amounts to an increase of but \$880.00 per annum to the shippers.

The applicant urges that in view of the showing that the present charge of \$5.00 per day does not cover the cost of additional ice necessary to preserve the freight or keep the car in proper condition for immediate loading during detention that the discrimination should be removed by raising the lower rate on intrastate shipments, and with this contention I am inclined to agree, assuming, of course, that the applicant's figures as to cost of ice are correct.

This leads me to a consideration of the cost of ice necessary to replenish the bunkers during the detention.

Ice for the refrigeration of perishable products of the Imperial Valley is supplied from different sources and according to an exhibit of applicant the amount of ice necessary in this service and its cost is as follows:

| | | |
|--|-----------|---------------|
| Ice shipped from Colton (Pacific Fruit Express ice plant)— | | |
| 21,315.15 tons at \$2.10 per ton----- | \$44,761 | 82 |
| Freight at \$3.00 per ton----- | 63,945 | 45 |
| Papering ice at 10 cents per ton----- | 2,131 | 52 |
| Ice shipped from Coachella (Coachella I. & R. Co.)— | | |
| 785.40 tons at \$4.25 per ton----- | 3,337 | 95 |
| Freight at \$1.15 per ton----- | 903 | 21 |
| Ice from El Centro (Holton Power Co.)— | | |
| 71.25 tons at \$4.25 per ton----- | 302 | 81 |
| Freight at \$.75 per ton----- | 53 | 44 |
| Ice from Los Angeles (Union-National Ice Co.)— | | |
| 2,958.90 tons at \$2.40 per ton----- | 7,101 | 36 |
| Freight at \$3.00 per ton----- | 8,876 | 70 |
| Papering ice at 10 cents per ton----- | 295 | 89 |
| | <hr/> | |
| Total ice issued 23,708.50 tons----- | \$131,710 | 15 |
| Labor, etc., handling ice, \$6,942.85----- | \$5 | 56 per ton |
| Investment, \$4,104.85. | 29 | per ton |
| Interest on investment, 6 per cent----- | \$246 | 29 |
| Depreciation, 6 per cent----- | 246 | 29 |
| | <hr/> | |
| | \$492 | 58 02 per ton |
| | <hr/> | |
| | \$5 87 | |

The only doubtful items in the above tabulation are those of freight charges from the ice shipping point to place where ice is placed in the bunkers of the refrigerator cars.

It will be noted that the commercial freight rate of \$3.00 per ton has been charged against ice shipped from Colton and Los Angeles, \$1.15 per ton from Coachella and 75 cents per ton from El Centro.

The applicant contends that inasmuch as the refrigeration of perishable products is performed on its lines by the Pacific Fruit Express Company, a separate institution, it must of necessity collect the regular commercial freight on the ice transported over its rails.

With this contention I can not agree. The Southern Pacific Company employs an outside agency (the Pacific Fruit Express Company) to perform its refrigeration service, but at the same time owns 50 per cent of the stock of this company, the other 50 per cent being owned by the Union Pacific Railroad.

The Southern Pacific Company is obligated to furnish such instrumentalities as will transport safely traffic offered, and this duty includes furnishing refrigerator cars and the ice where the character of the commodity offered for shipment requires such cars and ice for its safe carriage: Volume 2, Hutchinson on Carriers, section 505; Volume 4, Elliott on Railroads, section 1474, and cases therein cited; 4 R. C. L. 684.

If the Southern Pacific Company performed the refrigerator service itself instead of assigning that duty to an outside agency it would hardly expect to charge the cost of transporting ice at commercial freight rates, but would rather arrive at a figure as near the actual cost as possible.

In estimating the freight rate on a given commodity from a particular territory the carrier must consider not only the cost of carrying the freight over the road after loading, but also of getting the empty car to the point of loading. Refrigerator cars must be hauled empty into the Imperial Valley to load cantaloupes, live stock cars are hauled empty into a stock shipping territory, flat and box cars into a lumber producing region, for the reason that the ordinary traffic to such territory is not sufficient to provide loading for this equipment and it must move empty to handle outgoing tonnage.

Would the carrier contend that in arriving at a reasonable freight rate on the outbound movement of cantaloupes, live stock or lumber, as the case might be, it would be entitled to the commercial rate of freight for transporting the empty car to the loading point? I think not, and as the ice to fill the bunkers is just as essential as the refrigerator car itself, I am of the opinion the rate on company freight should be applied on this movement of ice and that instead of \$3.00 per ton from Colton a rate of approximately 85 cents per ton should be charged, based on the established and customary rate for company material of one half cent per ton per mile.

I am not in accord with contention of applicant that the carrier is required to charge the commercial freight rate on ice transported for an agent assigned a duty for carrying out part of the obligations of the carrier to the public, and a contract to haul the ice at less than commercial freight rates in such a case as this would, in my judgment, be valid and indeed proper.

While it is unnecessary for the purposes of this case to even consider the cost of transporting ice, I have deemed it advisable to discuss it at length so that the applicant would not consider that without further evidence we accept the statement that commercial freight rates should be charged in such cases as these.

The record shows that of the cars re-iced on account of detention beyond the departure of the last melon train approximately 8,500 pounds of ice are necessary to properly replenish the tanks for one day's detention. If we only allow company freight rates for the transportation of ice, which would reduce the cost from \$5.87 per ton to about \$4.00 per ton, at this figure the cost would be about \$17.00 per day.

This charge of \$17.00 per day should be reduced by deducting the value of the ice which the refrigerator company would have to place in the bunkers to fill the same in event car moved out without being detained.

No accurate estimate could be furnished at the hearing as to what amount of ice would be necessary to replenish bunkers after loading and before car was taken out by train in event car was not detained, but an investigation of the records of applicant indicates that an average of about 3,000 pounds of ice is required when car is not detained, which would have to be furnished without cost, and the value of this ice should be deducted as above mentioned.

It will thus be apparent that the proposed charge is not unreasonable and the application should be granted.

Although notice of hearing was sent to interested shippers and others no protestants appeared at the hearing. A representative of the shippers was present and stated that the refrigeration service was very acceptable to shippers but that he questioned the justice of some of the refrigeration rates.

The question of the refrigeration charges from one point in California to another were not involved in this proceeding, and, of course, the only remedy the shippers have if any of the refrigeration rates are deemed excessive, is to file a complaint specifically attacking the refrigeration charges complained of.

From a careful consideration of all the facts and evidence in this case I believe the application should be granted, and submit the following order:

ORDER.

The Southern Pacific Company having filed an application for permission to increase rate for detention of refrigerator cars from \$5.00 to \$10.00 per day on perishable freight from points on its lines Banning and east thereof, main and branch lines, including the Holton Interurban Railway Company, to all points in California, and a regular hearing having been held, and basing its order on the opinion which precedes this order,

It is hereby ordered that said application be and the same is hereby granted.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of February, 1915.

DECISION No. 2125.

IN THE MATTER OF THE APPLICATION OF THE CITY OF OAKLAND FOR PERMISSION TO CONSTRUCT NINETEENTH AVENUE AT GRADE ACROSS THE TRACK OF WESTERN PACIFIC RAILWAY COMPANY BETWEEN EAST TWELFTH STREET AND THE UNITED STATES BULKHEAD LINE IN THE CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA.

Application No. 1465.

IN THE MATTER OF THE APPLICATION OF CITY OF OAKLAND FOR PERMISSION TO CONSTRUCT NINETEENTH AVENUE AT GRADE ACROSS THE TRACKS OF CENTRAL PACIFIC RAILWAY COMPANY AND ITS LESSEE, SOUTHERN PACIFIC COMPANY, BETWEEN EAST TWELFTH STREET AND THE UNITED STATES BULKHEAD LINE, IN THE CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA.

Application No. 1466.

Decided February 4, 1915.

City of Oakland authorized to construct Nineteenth avenue at grade across the tracks of Western Pacific Railway Company and Southern Pacific Company, such crossing to be protected by an automatic flagman, the expenses thereof to be apportioned one third to applicant and one third each to the two railways.

John J. Earl, for Applicant.

Geo. D. Squires, for Southern Pacific Company.

Allan P. Matthew, for Western Pacific Railway Company.

John A. O'Donnell, for Henry Root, protestant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

These two applications were filed at the same time by the city of Oakland and look to opening the same street (Nineteenth avenue), one of them covering the crossing of the track of the Western Pacific Railway Company and the other the crossing of the tracks of the Southern Pacific Company, as lessor of the Central Pacific Railway Company. They were heard together at the same public hearing in San Francisco, and, the same questions being involved in both, will be considered together in this opinion and jointly covered in the order.

There are three matters to be considered in connection with these grade crossings: *First*, the necessity for the crossing; *second*, the need for their protection; *third*, the division of expense of this protection, if the applications are granted, and the need for such protection is shown.

The tracks of the railroad companies run in this vicinity in a general easterly and westerly direction. South of the tracks lies a large tract of land owned in part by the city of Oakland and in part by private owners, which is now and will probably always be devoted to industrial purposes. At the present time the Livingston pier, a city wharf, and several industries are located south of the tracks and east of the proposed extension of Nineteenth avenue, and undoubtedly the number will be increased in the near future. These industries and the municipal wharf are now accessible only by the way of Twenty-second avenue or Twenty-third avenue. To reach the wharf and some of the industries from the business section of Oakland it is necessary for vehicles to make a long detour of from a mile to a mile and a half, over very poor streets, and the testimony showed that all of the industries except possibly those located directly upon Twenty-second or Twenty-third avenues would find the construction of these crossings and the opening of Nineteenth avenue an added convenience. Several witnesses connected with industries located either on or in the vicinity of the property owned by the city of Oakland in this locality testified that they considered the need urgent, and one of them testified that his present inconvenience was so great he would not have located his plant in this tract of land if he had not understood that this street would be opened. The protestant against the granting of these applications, and his witness, stated that they believed the opening of this street would serve public convenience, and there is no doubt in my mind but that this street should be opened if it can be shown that no undue hazard would be caused by reason of the construction of the crossings applied for.

The evidence shows that on the northwest corner of the intersection of the tracks with this proposed street a building obscures the view of trains approaching from the west, and on the opposite side of the track

a high board fence at the southwest corner forms an obstruction to the view of eastbound Southern Pacific trains to drivers of vehicles going north. It also appears that on the opposite side of the street on the same side of the tracks the southerly track of the six Southern Pacific tracks has at times box cars standing upon it which to a certain extent obscure the view to be had of trains approaching from the east.

The removal of the fence is a matter which is controlled by the city of Oakland, and the attorney for the Southern Pacific stated that if this street was open the rules of his company would not permit cars to be placed to obstruct the view. I am of the opinion that with the removal of this board fence for a reasonable distance west of the proposed street and the abandonment by the Southern Pacific of a portion of the southerly track for storage, that this crossing would not be particularly unsafe, when protected, even with the passage thereover of the 150 to 200 trains which use it daily. The testimony, with the exception of that of the protestant, was unanimous to the effect that this crossing could be properly safeguarded without the installation of crossing gates, this being a type of protection which costs considerably more for both installation and maintenance than an automatic flagman. The attorney for the Southern Pacific stated that the operating department of his railroad did not think that it would be necessary at this time to install crossing gates and maintain a watchman there to operate them, and this is also the opinion of our own engineering department.

I believe that until traffic becomes much heavier than it will be for some time after this street is opened, an automatic flagman, connected with the rails of both railroad companies, will provide sufficient protection at the tracks for those who will use the crossing.

In this connection I wish to call the attention of the Southern Pacific Company to the fact that several witnesses testified that the crossing of Twenty-second avenue and the Southern Pacific Company's tracks was an exceedingly dangerous crossing, and to recommend that it investigate thoroughly the conditions obtaining at this crossing and provide such protection as is necessary to safeguard the lives and property of those who use it.

In regard to the division of expense for the protection of these crossings: The easements which both railroad companies have executed, granting to the city of Oakland portions of their respective rights of way, contain the following clause:

"In the event that lawful authority shall require the installation and maintenance of gates at said crossing, the party of the second part (city of Oakland) shall pay one third of the cost of installing the same, said one third, however, not to exceed the sum of \$400.00."

These easements have been accepted by the city, and while this clause in the indenture looks to the installation of crossing gates and apparently expects that gates will be installed independently on both railroads, I see no reason why, if at the present time gates are not considered necessary, the city should not pay the same proportion of the cost of the automatic flagman protection that it has indicated it is willing to pay for the gates.

I submit the following form of order:

ORDER.

City of Oakland, a municipal corporation, having applied to the Commission for permission to construct Nineteenth avenue, at grade, across the track of Western Pacific Railway Company, a corporation, and Central Pacific Railway Company, a corporation, and its lessee, Southern Pacific Company, a corporation, between East Twelfth street and the United States bulkhead line, in the city of Oakland, Alameda County, California, and a public hearing having been held, and the Commission being fully apprised in the premises, as set forth in the foregoing opinion,

It is hereby ordered, that the city of Oakland be and the same is hereby granted permission to construct Nineteenth avenue at grade across the tracks of Western Pacific Railway Company, and its lessee, Southern Pacific Company, between East Twelfth street and the United States bulkhead line, in the city of Oakland, Alameda County, California, subject to the following conditions and not otherwise, viz:

(1) These crossings shall be constructed of a width of not less than forty (40) feet, with grades of approach not exceeding six (6) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(2) The entire expense of constructing the crossings shall be borne by applicant.

(3) The expense of maintaining the crossings hereafter shall be borne by applicant up to within two (2) feet of the outside rails of Western Pacific Railway Company and the outside rails of Southern Pacific Company. The expense of maintaining the crossings between the rails of Southern Pacific Company and to a point two (2) feet outside of the outside rails thereof shall be borne by Southern Pacific Company. The expense of maintaining the crossing between the rails of Western Pacific Railway Company and to a point two (2) feet outside thereof shall be borne by Western Pacific Railway Company.

(4) For the protection of these crossings Western Pacific Railway Company and Southern Pacific Company shall install, in a conspicuous place, one (1) first class, automatic flagman, of a type approved by the Commission.

(5) The expense of providing and installing said crossing watchman shall be borne, one third ($\frac{1}{3}$) by the applicant, one third ($\frac{1}{3}$) by Western Pacific Railway Company and one third ($\frac{1}{3}$) by Southern Pacific Company.

(6) The cost of maintaining this watchman hereafter shall be borne jointly by Western Pacific Railway Company and Southern Pacific Company.

(7) City of Oakland shall at its own expense remove, or cause to be removed, the board fence along the south right of way line of Southern Pacific Company, between the property of the city and Southern Pacific Company, for a distance of not less than two hundred (200) feet from the west line of Nineteenth avenue.

(8) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of these crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 4th day of February, 1915.

Decisions Nos. 2126, 2127, 2128, grade crossings; not printed. See end of volume.

DECISION No. 2129.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE FRANCHISE RIGHTS IN YUBA COUNTY AND IN THE CITY OF MARYSVILLE.

Application No. 432.

Decided February 4, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Great Western Power Company having on February 3, 1915, made written request that this application be dismissed,

It is hereby ordered that this application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 4th day of February, 1915.

DECISION No. 2130.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND LONG
BEACH STEAMSHIP COMPANY FOR AUTHORITY TO ISSUE STOCK.

Application No. 1122.

Decided February 4, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that San Diego and Long Beach Steamship Company does not desire to proceed with this application,

It is hereby ordered that this application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 4th day of February, 1915.

DECISION No. 2131.

IN THE MATTER OF THE APPLICATION OF THE ELECTRIC SERVICE
COMPANY FOR AUTHORITY TO ISSUE STOCK.

Application No. 945.

Decided February 4, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that applicant does not desire to proceed with this application,

It is hereby ordered that this application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 4th day of February, 1915.

DECISION No. 2132.

IN THE MATTER OF THE APPLICATION OF JAMES H. NORTHROP,
ROGER G. LEWIS, NOLAN B. STADLEY, FOR A CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY.

Application No. 946.

Decided February 4, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that applicants do not desire to proceed with this application,

It is hereby ordered that this application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 4th day of February, 1915.

DECISION No. 2133.

IN THE MATTER OF THE APPLICATION OF SANTA CLARA VALLEY
WATER COMPANY FOR AUTHORITY TO ISSUE BONDS.

Application No. 1456.

Decided February 5, 1915.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission in its order heretofore rendered on December 30, 1914, in the above entitled application, having authorized the Santa Clara Valley Water Company to issue \$15,000.00 of its 6 per cent refunding mortgage bonds under a mortgage and deed of trust to Garden City Bank and Trust Company of San Jose, a copy of which was filed in connection with the application and marked Exhibit "D";

And applicant now having presented to the Commission for its approval a revised form of mortgage and deed of trust, marked Exhibit "F," in which certain minor changes are made in the deed of trust previously approved by the Commission, and marked Exhibit "D,"

It is hereby ordered that the deed of trust submitted by the Santa Clara Valley Water Company and marked Exhibit "F" be and it is hereby approved.

It is further ordered that Santa Clara Valley Water Company be given authority to substitute deed of trust herein referred to as Exhibit "F" for deed of trust heretofore filed as Exhibit "D."

Dated at San Francisco, California, this 5th day of February, 1915.

DECISION No. 2134.

IN THE MATTER OF THE APPLICATION OF ESCONDIDO UTILITIES COMPANY FOR AN ORDER DETERMINING THE VALIDITY OF A PROMISSORY NOTE OF SIXTEEN THOUSAND DOLLARS, PURPORTING TO BE MADE BY IT AND PAYABLE TO THE ORDER OF W. S. SHEPARDSON, AND DETERMINING THE VALIDITY OF THE ATTEMPTED PLEDGE OF CERTAIN BONDS OF SAID COMPANY TO SECURE THE PAYMENT OF SAID NOTE.

Application No. 1355.

Decided February 5, 1915.

Applicant having issued a two-year promissory note in the sum of \$16,000.00 without the necessary authorization of this Commission, applies for an order validating such issue, in connection with which order it also petitions, in view of the fact that the present holder of the void note has offered to discount such note for \$12,000.00, that if the Commission should declare the former note void, that it only authorize a new note in the sum of \$12,000.00, permitting applicant to benefit by the proposed discount.

Held, That as applicant's \$16,000.00 note is a proper indebtedness the Commission has no right to authorize a note in a lesser sum covering same, applicant authorized to issue its note in the face value of not to exceed \$16,000.00, such note to be issued in lieu of a note heretofore purported to be issued by applicant. That applicant's bonds securing such note were properly issued prior to the effective date of the Public Utilities Act and need no further authorization of this Commission.

A. H. Sweet, for Applicant.

L. A. Wright, for intervenors, Charles C. Glass, and Escondido Savings Bank, trustee.

Curtis & McNab, for W. S. Shepardson.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application of Escondido Utilities Company, for an order determining the validity of a certain note for sixteen thousand dollars (\$16,000.00) given to W. S. Shepardson, and of the pledge of bonds to the face value of thirty-two thousand dollars (\$32,000.00), said bonds having been pledged to secure the payment of the note in question. The note is dated March 1, 1913, and matures March 1, 1915.

In June, 1914, W. S. Shepardson agreed to sell applicant's note for sixteen thousand dollars (\$16,000.00) held by him, to Charles C. Glass, a former director and manager of the Escondido Utilities Company, for the sum of twelve thousand dollars, (\$12,000.00). On November 2, 1914, petitioner filed an amendment to its application, requesting that if the Commission should authorize a renewal of said note or the making of a new note in lieu thereof, such renewal or new note should be made for the sum of twelve thousand dollars (\$12,000.00) and no more.

Mr. Charles C. Glass, and the Escondido Savings Bank, trustee, filed an intervention asking that the applicant be authorized to issue a note in the sum of sixteen thousand dollars (\$16,000.00) to Mr. Shepardson.

I have made an exhaustive analysis of the application, the testimony offered at the hearing, the documentary evidence and briefs submitted by the contestants.

Escondido Utilities Company was incorporated November 22, 1909, by Seth Hartley, Lottie Hartley and Charles C. Glass, with an authorized capital stock of \$100,000.00 divided into 1,000 shares of the par value of \$100.00 each. All of the stock, except two shares, was issued to Seth Hartley in payment for money alleged to have been expended by him for the construction of applicant's gas and electric plants. Mr. Hartley retained control of the company until the latter part of 1910. At the present time, though applicant has ninety stockholders, the majority of the stock is owned and held by Messrs. W. A. Sickler, W. H. Baldrige, E. B. Buell and H. T. Lyon.

Applicant is engaged in supplying Escondido, San Diego County, and territory adjacent thereto with electrical current and artificial gas. It owns an electrical steam generating plant, having a capacity of 150 kilowatts and a gas generating plant having a capacity of 100,000 cubic feet per twenty-four hours.

The cost of the electric plant is reported by the applicant at \$38,610.63 and the cost of the gas plant at \$22,599.03.

The evidence shows that applicant has approximately 200 gas and 200 electric consumers. The rates on file with this Commission show charges as follows:

ELECTRIC LIGHTING RATES.

| | |
|--|----------------------------|
| Minimum meter bill per month..... | \$1 50 |
| First 100 kilowatt hours or less..... | 10 cents per kilowatt hour |
| Second 100 kilowatt hours or less..... | 8 cents per kilowatt hour |
| Third 100 kilowatt hours or less..... | 7 cents per kilowatt hour |
| Fourth 100 kilowatt hours or less..... | 6 cents per kilowatt hour |
| All in excess | 5 cents per kilowatt hour |

ELECTRIC POWER RATES.

Minimum bill \$1.00 per month per horsepower connected.
Rates, 50 per cent discount on lighting rates.

GAS RATES.

| | |
|--|------------------|
| 50 cents top rate per meter installed (per month). | |
| First 10,000 cubic feet..... | \$1 00 per 1,000 |
| Above 10,000 cubic feet | 80 per 1,000 |

Applicant has submitted a financial statement for the thirteen months ending December 31, 1914. The statement shows earnings and expenses as follows:

| REVENUE. | |
|----------------------------------|-------------|
| Municipal lighting ----- | \$1,738 75 |
| Gas revenue (metered) ----- | 6,343 89 |
| Gas revenue (prepaid) ----- | 170 75 |
| Electric revenue (metered) ----- | 5,681 33 |
| Electric revenue (flat) ----- | 2,620 88 |
| Total ----- | \$16,555 60 |

| OPERATING EXPENSES AND INTEREST. | |
|--|-------------|
| Interest ----- | \$2,359 16 |
| Insurance ----- | 137 85 |
| Supplies, oil ----- | 1 73 |
| Supplies, electric fuel ----- | 3,868 80 |
| Supplies, electric ----- | 340 98 |
| Supplies, gas ----- | 149 28 |
| Supplies, gas fuel ----- | 2,603 59 |
| Labor, gas ----- | 1,372 84 |
| Labor, electric ----- | 1,825 50 |
| Freight and drayage ----- | 40 15 |
| Salaries of general officers ----- | 495 00 |
| General office and incidental expenses ----- | 577 02 |
| Setting and removing meters ----- | 6 25 |
| Setting and removing meters, gas ----- | 19 00 |
| Repairs to meters, gas ----- | 2 35 |
| Repairs to municipal system ----- | 251 71 |
| Repairs to generating plant, gas ----- | 95 39 |
| Repairs to distributing system, electric ----- | 51 65 |
| Repairs to distributing system, gas ----- | 71 27 |
| Meter reading, electric ----- | 55 50 |
| Meter reading, gas ----- | 55 35 |
| Repairs to furnaces and boilers ----- | 791 00 |
| Repairs to furnaces and boilers, gas ----- | 229 50 |
| New business, electric ----- | 70 10 |
| New business, gas ----- | 70 16 |
| Injuries and damages ----- | 46 25 |
| Salaries of office clerk ----- | 880 00 |
| Electric services ----- | 47 48 |
| Steam generating labor ----- | 151 50 |
| Law expense ----- | 15 00 |
| Taxes, electric ----- | 424 80 |
| Taxes, gas ----- | 341 69 |
| Total ----- | \$17,447 59 |
| Loss for 13 months ----- | 891 99 |

Applicant reports assets and liabilities as of December 31, 1914, as follows:

| ASSETS. | | |
|---|-------------|--------------|
| Fixed capital: | | |
| Electric plant ----- | \$38,610 63 | |
| Gas plant ----- | 22,599 03 | |
| Fixed capital installed since December 31, 1912-- | 383 28 | |
| Real estate ----- | 4,606 50 | |
| Furniture and fixtures----- | 330 21 | |
| Total ----- | | \$66,529 65 |
| Treasury securities and investments: | | |
| Stock ----- | \$7,800 00 | |
| Bonds ----- | 45,000 00 | |
| Stock in Escondido Mutual Water Company-- | 112 00 | |
| Total ----- | | 52,912 00 |
| Current assets: | | |
| Cash ----- | \$56 23 | |
| Accounts receivable ----- | 1,719 60 | 1,775 83 |
| Unamortized discount on stock----- | | 56,570 04 |
| Deficit ----- | | 985 98 |
| Total assets ----- | | \$178,773 50 |
| LIABILITIES. | | |
| Capital stock ----- | | \$100,000 00 |
| Assessment on stock ----- | | 3,698 00 |
| Bonds ----- | | 50,000 00 |
| Current liabilities: | | |
| Notes payable ----- | \$21,000 00 | |
| Accounts payable ----- | 2,953 72 | |
| Deposits ----- | 877 00 | |
| Miscellaneous ----- | 244 78 | |
| Total ----- | | 25,075 50 |
| Total liabilities ----- | | \$178,773 50 |

While applicant reports bonds to the face value of \$45,000.00 in its treasury, the evidence submitted shows that these bonds are pledged to secure the payment of notes. Though all of applicant's stock was originally issued, \$7,800.00 has reverted to the treasury because of the failure of the owners of said stock to pay the assessments levied upon it. During the history of the utility, it has been necessary to levy three assessments on the stockholders. The first of these amounted to \$3.00 per share, the second to \$5.00 per share and the third to \$4.00 per share.

Under a deed of trust dated December 28, 1909, Escondido Utilities Company is authorized to issue bonds to the face value of \$50,000.00. These bonds are dated January 1, 1910, and mature serially. Three bonds mature January 1, 1915, and three annually thereafter until all are paid. The bonds are in the denomination of \$1,000.00 and bear 5 per cent interest.

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The bonds were issued to Mr. Seth Hartley for advancements of money by him to the company. Thereafter he used the bonds as collateral to secure his indebtedness.

The company, to determine whether its bonds had been illegally issued, filed, in 1911, a suit in the superior court of the county of San Diego, against Seth Hartley in order to recover its bonds. The case was heard by Judge W. A. Sloane, who rendered a judgment in favor of Mr. Hartley. In substance, the court held that the plaintiff had failed to prove any fraud or mistake in connection with the issuance of the bonds; that the bona fide indebtedness of the plaintiff to the defendant amounted to \$26,283.81; that the plaintiff, the Escondido Utilities Company, was entitled to recover the possession of the bonds only upon the payment of the sum of \$26,283.87, with interest at 6 per cent per annum; from the fifteenth day of July, 1910, less \$1,380.00, the amount received by the defendant as interest on the bonds from October 31, 1910, to May 1, 1911; and that the defendant, Seth Hartley, had the right to hold and dispose of the bonds securing the indebtedness of \$26,283.81.

Thereafter, Seth Hartley agreed to discount the judgment by the amount of \$2,783.81. He further agreed to accept in satisfaction of said judgment, a note for the face value of \$16,000.00 and \$6,500.00 cash. The difference of \$1,000.00 is accounted for by the sale of one bond by Mr. Hartley.

The court having found that the bonds were legally issued prior to March 23, 1912, and the evidence in this proceeding showing that they never thereafter became the property of the company, and that they were the private property of Seth Hartley at the time they were pledged to secure the \$16,000.00 note in question, I am of the opinion that this Commission should find that the \$32,000.00 of bonds pledged to secure the note of \$16,000.00 were legally issued.

The issuance of the note, for the payment of which the bonds were pledged, presents an entirely different subject, the facts of which I shall now consider.

To pay the judgment rendered against it, applicant borrowed \$5,000.00 on a six months note from the First National Bank of Escondido; \$1,500.00 on a six months note from H. T. Lyon and Edgar B. Buell, and \$16,000.00 on a two-year note from W. S. Shepardson.

This application involves the legality of the note given to W. S. Shepardson, which was dated March 1, 1913. The company did not receive \$16,000.00 in cash from Mr. Shepardson. He, from time to time, had loaned money to Seth Hartley, and in settlement of claims against said Hartley agreed to take a note from the Escondido Utilities Company for the amount above indicated. The note was not issued to Seth

Hartley and by him assigned to W. S. Shepardson, but was issued direct by Escondido Utilities Company to said Shepardson. The bonds pledged as security were, however, transferred by Seth Hartley, and not by the company, to W. S. Shepardson.

That the note in question issued on March 1, 1913, for a period of two years was issued in violation of the Public Utilities Act is so obvious that further comment on that subject is unnecessary.

By an agreement (see Exhibit "A," amendment to application), Charles C. Glass secured an option from W. S. Shepardson to purchase the \$16,000.00 note given to him by the Escondido Utilities Company for the sum of \$12,000.00. Mr. A. H. Wohlford of the Escondido Savings Bank testified that he had agreed to pay Mr. Charles C. Glass \$1,000.00 for his option.

Applicant contends that Charles C. Glass, for the reason that he was vice-president and manager of the company at the time the note to W. S. Shepardson was given and an employee, serving in the capacity of operator of the plant at the time he made arrangements to purchase the note, occupied a fiduciary position towards the company and violated his trust.

Inasmuch as W. S. Shepardson has agreed to sell his claim against the company for the sum of \$12,000.00, applicant requests this Commission, in case it should find the note to have been issued in violation of the Public Utilities Act, to authorize a new note to Mr. Shepardson for the face value of \$12,000.00, thereby depriving Charles C. Glass et al., of the profits which they intend to make at the expense of the Escondido Utilities Company. As against this position, the intervenors contend that if such an order be issued by the Commission, it in reality will reward rather than penalize the Escondido Utilities Company for violating the Public Utilities Act.

The agreement between W. S. Shepardson and Charles C. Glass, under the terms of which Mr. Glass is to acquire the \$16,000.00 note of the Escondido Utilities Company for the sum of \$12,000.00 becomes inoperative after February 15, 1915, in case neither party shall have filed by that date a copy of an order of this Commission authorizing the issue of the bonds pledged as collateral for the \$16,000.00 note and "ratifying the board of directors of the Escondido Utilities Company in hypothecating said bonds as collateral security."

The charge made by the applicant that Mr. Charles C. Glass, in obtaining an option on this note for \$12,000.00, has violated a trust, is not for this Commission to determine. That is a matter for the courts. It is, of course, within the province of this Commission to endeavor to do

equity in all cases that come before it. In this particular instance, the Commission is called upon merely to exercise an authority, with which it is vested under the Public Utilities Act, to authorize the issue of a promissory note for a period in excess of one year. This applicant has in violation of the Public Utilities Act issued its note for \$16,000.00 to Mr. Shepardson. This Commission can not validate an illegal note. It may be assumed, and, in fact, it is admitted by the applicant, that the note of \$16,000.00 represents a proper subsisting obligation due Mr. Shepardson. It does not lie with this body to say that because Mr. Shepardson may have been willing to discount his note, this applicant should be relieved of the amount of its undisputed indebtedness represented by that discount. Such an authorization, if given, would in reality avail nothing, because the legal debt would remain the same. In other words, this Commission can not change the amount of the indebtedness.

It was made clear at the hearing in this matter that the Commission did not regard itself as the proper body before which a charge of breach of trust on the part of Mr. Glass should be tried. It did not seek to develop all of the facts surrounding the conduct of Mr. Glass in this transaction. It is my view that this body should not in this matter assume to adjudicate matters not properly within its jurisdiction. I shall, therefore, recommend such disposition of this case as shall leave all parties free to contract and to carry into the appropriate tribunals, if they so desire, such matters as they can not otherwise determine.

I believe that the violation of the Public Utilities Act by the applicant herein was rather through ignorance of the statute at the time than through a desire to evade its provisions. In view of all these facts, I recommend that the applicant be granted authority to issue a new note in lieu of the invalid note previously issued to Mr. Shepardson; and that this new note be of a face value not to exceed the sum of \$16,000.00.

It must be distinctly understood that the Commission is not directing the applicant to issue a note of the face value of \$16,000.00, but that the order herein is simply permissive, in so far as this Commission is concerned. If there are reasons why a note should not be issued in this amount, or if the matter can be settled by the issue of a note in a lesser amount, these matters will be determined in the proper forum and by the proper parties.

Accordingly, I submit the following form of order:

ORDER.

Esecondido Utilities Company having applied to this Commission for an order to determine the validity of a promissory note in the sum of \$16,000.00, payable to the order of W. S. Shepardson, and to determine

the validity of the issue and pledge of bonds by said company to secure the payment of said note, and a hearing having been held and this Commission being acquainted with all the facts,

It is hereby found as a fact that said note in the sum of \$16,000.00, issued by Escondido Utilities Company to W. S. Shepardson, dated March 1, 1913, said note being for a period of two years, was issued in violation of the provisions of the Public Utilities Act;

It is hereby further found as a fact that \$32,000.00 of bonds pledged as collateral security for said note of Escondido Utilities Company for \$16,000.00, payable to W. S. Shepardson, were not issued in violation of the provisions of the Public Utilities Act.

A hearing having been held on the application herein and it appearing that the purposes for which the note in the sum of \$16,000.00, payable to W. S. Shepardson, heretofore referred to, was issued were not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Escondido Utilities Company be given authority and it is hereby given authority to issue a promissory note to W. S. Shepardson, said note to be of the face value in a sum not to exceed \$16,000.00, to be payable not more than two years after date and to bear a rate of interest not to exceed 8 per cent per annum.

The authority herein given to issue said note is given upon the following conditions, and not otherwise:

1. The note herein authorized to be issued shall be issued in substitution for a note in the sum of \$16,000.00 issued by Escondido Utilities Company to W. S. Shepardson and dated March 1, 1913.

2. Upon the issue of the note herein authorized to be issued, the note previously issued to W. S. Shepardson in the sum of \$16,000.00, dated March 1, 1913, shall be canceled.

3. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

4. The authority herein granted shall apply to such note or notes as shall have been issued on or before March 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of February, 1915.

DECISION No. 2135.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AUTHORITY TO ISSUE EIGHT HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS OF BONDS.

Application No. 1240.

Decided February 5, 1915.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

SUPPLEMENTAL OPINION.

This Commission on December 18, 1914, issued its second supplemental order in the above proceeding, approving a proposed mortgage and deed of trust, being an indenture between Los Angeles and San Diego Beach Railway Company and Southern Trust and Savings Bank of San Diego, dated December 31, 1914, which has been marked "Exhibit I" in connection with the application herein.

On January 18, 1914, applicant filed an executed copy, which has been marked "Exhibit J" of the mortgage and deed of trust, being an indenture between Los Angeles and San Diego Beach Railway Company and Southern Trust and Savings Bank of San Diego, dated December 31, 1914.

After a careful analysis, I find that the deed of trust marked "Exhibit J" is, in substance, the same as the deed of trust marked "Exhibit I." The changes are merely of form and are of minor importance.

I therefore recommend that the amended trust deed be approved and herewith submit the following order:

THIRD SUPPLEMENTAL ORDER.

Los Angeles and San Diego Beach Railway Company having applied to this Commission for an order approving a mortgage and deed of trust (marked "Exhibit J"), being an indenture between Los Angeles and San Diego Beach Railway Company and Southern Trust and Savings Bank of San Diego, dated December 31, 1914,

It is hereby ordered that the mortgage and deed of trust, marked "Exhibit J," in connection with the application herein, be and the same is hereby approved.

It is further ordered that the mortgage and deed of trust marked "Exhibit J" shall supersede the mortgage and deed of trust marked "Exhibit I," approved in the second supplemental order of this Commission, dated December 18, 1914.

The foregoing supplemental opinion and third supplemental order are hereby approved and ordered filed as the supplemental opinion and third supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of February, 1915.

Decision No. 2136, grade crossing; not printed. See end of volume.

DECISION No. 2137.

IN THE MATTER OF THE APPLICATION OF THE TULARE COUNTY POWER COMPANY FOR AN ORDER AUTHORIZING IT TO EXTEND TWENTY OF ITS TEN THOUSAND DOLLAR NOTES IN FAVOR OF C. J. WRIGHTMAN, AND FOR AN ORDER AUTHORIZING IT TO EXECUTE ITS NOTE FOR ONE HUNDRED THOUSAND DOLLARS TO THREE CERTAIN TRUSTEES, AND AUTHORIZING SAID TULARE COUNTY POWER COMPANY TO EXECUTE A DEED OF TRUST OR MORTGAGE COVERING ALL OF ITS PROPERTY TO SAID TRUSTEES TO SECURE THE PAYMENT OF SAID ONE HUNDRED THOUSAND DOLLAR NOTE.

Application No. 1484.

Decided February 6, 1915.

Applicant applies for permission to renew \$200,000.00 face value of notes and issue an additional note in the sum of \$100,000.00, which application is amended at the hearing to request permission to issue a one day note in the sum of \$50,000.00 and permit the balance of notes to stand as at present, and such action not needing the sanction of this Commission, application accordingly dismissed. Several suggestions made, which if followed by applicant will tend considerably to lessen its present annual deficit.

C. E. Bush, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This application was filed with the Commission on January 8, 1915. A hearing was held in Lindsay, Tulare County, on February 1, 1915. At this hearing Mr. C. E. Bush, acting for Tulare County Power Company, asked leave and was granted permission to amend this application.

It was the purpose under the original application to extend \$200,000.00 of notes now outstanding, to issue a new note for \$100,000.00 and to execute trust agreements or mortgages as security for these notes.

As amended at the hearing, the applicant asked for authority to extend \$250,000.00 of notes now outstanding and to issue a new note or notes payable one day after date, in a sum not to exceed \$50,000.00. It is proposed that the notes in the sum of \$250,000.00 be extended

merely by a mutual agreement embodied in the form of letters and telegrams between the applicant and the payee by merely allowing them to ride.

In this amended application as presented to the Commission at the hearing, I find nothing which requires the authorization of this Commission under the terms of the Public Utilities Act. No request is made to issue new notes for a period in excess of one year.

This applicant is now indebted to Mr. C. J. Wrightman in the sum of \$250,000.00. This indebtedness is represented by twenty-two notes in amounts and maturities as follows:

One note for \$25,000.00, due February 1, 1914.

One note for \$25,000.00, due August 1, 1914.

Twenty notes for \$10,000.00, each due February 1, 1915.

These notes are payable to Mr. C. J. Wrightman. They are secured by a deed of trust covering the properties of Tulare County Power Company. In addition, a number of the stockholders of Tulare County Power Company have given a bond, with their land holdings as security, to further secure the payment of the indebtedness to Mr. Wrightman. Under the terms of these agreements, the notes payable to Mr. Wrightman are to bear 12 per cent interest after the date of their maturities. As these notes have now all matured, the Tulare County Power Company, therefore, is under obligation to pay to Mr. Wrightman interest at the rate of 12 per cent per annum on this indebtedness.

An assessment has been levied by Tulare County Power Company on its stockholders and it proposes to pay at this time \$50,000.00 upon this indebtedness, reducing its obligation to Mr. Wrightman to \$200,000.00. It is the plan of the applicant to raise further funds from its stockholders during the year through an issue of notes or otherwise, and in this manner to reduce substantially or to discharge completely its indebtedness to Mr. Wrightman.

While there is nothing in this application that requires an affirmative authorization from this Commission, a hearing developed three essential particulars in which the applicant might better its condition.

It appears that the applicant is serving one class of consumers who are holders of what is known as "consumers' common stock" at a special rate assumed to be the cost of the service. This is a flat rate of \$42.00 per horsepower per year for power for pump irrigation. The general rate for this same service is \$50.00 per horsepower. The attention of this applicant had previously been called to this discrimination, and I repeat the suggestion heretofore made that this discrimination should be removed. Applicant's patrons, whether they be holders of applicant's stock or not, should be placed upon the same rate basis.

A second element which has caused some trouble to the applicant has been the contract under which it purchased power from the San Joaquin Light and Power Corporation. The applicant has paid for this power \$40.00 per horsepower per annum, has contracted for a minimum of 1,000 horsepower regularly and has been under the obligation to pay for a greater amount if for a given period at peak load it used more than this minimum. The applicant and San Joaquin Light and Power Corporation have been in litigation over certain phases of this contract and service between the two has now ceased.

The third essential difficulty has been the high rate of interest which the Tulare County Power Company has been paying for borrowed money.

For the calendar year 1914 the applicant's gross revenue was \$143,021.99 and its net revenue after the payment of operating expenses, \$17,204.81. After the payment of interest, the company showed a deficit for the year of approximately \$20,000.00.

I recommend, therefore, that the applicant address itself particularly to the three matters herein called to its attention.

As I find that the matters presented, as amended, do not require an authorization from this Commission, I recommend that the application be dismissed.

ORDER.

Tulare County Power Company having made application to this Commission for authority to extend notes and to execute certain mortgages or deeds of trust as indicated in the foregoing opinion,

And Tulare County Power Company at the hearing held thereon having amended said application as indicated in the foregoing opinion, and a hearing having been held and it appearing that the matters presented in said amended form of application do not require the authorization of this Commission,

It is hereby ordered that this application be and the same is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of February, 1915.

DECISION No. 2138.

IN THE MATTER OF THE APPLICATION OF NORTHWESTERN PACIFIC RAILROAD COMPANY AND CALIFORNIA WESTERN RAILROAD AND NAVIGATION COMPANY FOR ORDER AUTHORIZING THE LEASE OF A PORTION OF THE RIGHT OF WAY OF SAID NORTHWESTERN PACIFIC RAILROAD COMPANY FOR THE CONSTRUCTION AND OPERATION OF AN INDEPENDENT TRACK FROM A POINT ABOUT ONE HALF MILE WEST OR SOUTH OF WILLITS INTO THE WILLITS RAILROAD YARD AND OF CERTAIN YARD AND STATION FACILITIES AT WILLITS, MENDOCINO COUNTY, CALIFORNIA.

Application No. 1505.

Decided February 6, 1915.

Northwestern Pacific Railroad Company desiring to lease to the California Western Railroad and Navigation Company a portion of its right of way entering the town of Willits, and it appearing that if the latter company secures the use of such right of way it will add materially to the convenience of its patrons, application granted.

Stanley Moore, for Northwestern Pacific Railroad Company.

Charles E. Wilson, for California Western Railroad and Navigation Company.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This application looks to the leasing by the Northwestern Pacific Railroad Company to the California Western Railroad and Navigation Company of some of the facilities of the former company in and near Willits, Mendocino County, California, for a period of ten (10) years from January 1, 1915, with the privilege of renewal thereafter from year to year until notice of cancellation is given by either party. By granting this application the California Western Railroad and Navigation Company will be enabled to run its trains and perform its service, without transfer, in and around Willits, which service will cause considerable added convenience to the traveling public and will facilitate the operations of both railroads.

The agreement between the two companies for the operation of the facilities proposed to be used jointly is attached to the application as Exhibit "A" and is accompanied by a map showing in detail the facilities to be so used. It covers fully the compensation to be paid by the one company to the other for these privileges and the terms upon which they are to be granted, and is satisfactory to both parties. The terms of this lease seem to me to be fair and equitable and no opposition

having been made at the hearing, I am of the opinion that this application should be granted and recommend the following form of order:

ORDER.

Northwestern Pacific Railroad Company and California Western Railroad and Navigation Company having jointly made application to the Commission for permission for the former company to lease to the latter a portion of its right of way and certain of its facilities in and around Willits, and a public hearing having been held, and it appearing that the granting of this application would result in added convenience to both the applicant railroad companies and to the traveling public, and should be granted,

It is hereby ordered that Northwestern Pacific Railroad Company be and the same is hereby authorized to lease to the California Western Railroad and Navigation Company that certain portion of its right of way and those certain facilities in and around Willits more particularly shown on the map attached to the application and described in the agreement also attached to the application as Exhibit "A." This lease shall be in accordance with the terms of this agreement (Exhibit "A"), and the Commission reserves the right, from time to time, to prescribe such alterations and changes in said agreement as to it may seem right and proper.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of February, 1915.

DECISION No. 2139.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO HOME BUILDERS, INC., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE SALE AND DISTRIBUTION OF WATER IN THE VICINITY OF ANGELUS HEIGHTS, IN SAN DIEGO COUNTY, CALIFORNIA.

Application No. 711.

Decided February 6, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing to the Commission that the applicant in the application entitled as above does not desire at this time to proceed with this matter,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 6th day of February, 1915.

DECISION No. 2140.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO VALLEY AND EASTERN RAILWAY TO LEASE THAT PORTION OF THE RAILROAD BETWEEN PIT AND HERCULT TO THE NOBLE ELECTRIC STEEL COMPANY.

Application No. 538.

Decided February 6, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing to the Commission that the applicants in the above entitled application do not wish to proceed with the matter,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 6th day of February, 1915.

DECISION No. 2141.

IN THE MATTER OF THE APPLICATION OF ANTELOPE CREEK AND RED BLUFF WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF NOTES.

Application No. 303.

Decided February 6, 1915.

Applicant authorized to issue its promissory notes of a total aggregate face value of \$12,000.00 partially in renewal of notes previously authorized, the balance to reimburse treasury for money expended for purposes properly capitalizable.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

This Commission having, on January 8, 1913, authorized applicant to issue promissory notes of the aggregate face value of \$15,000.00 for a term not to exceed five years and at a rate of interest not to exceed 6 per cent per annum, the proceeds of said notes to be used (1) to take up an existing promissory note of \$3,000.00 payable to the Bank of Tehama County, and (2) to reimburse applicant's treasury for money actually expended from income for improvements and extensions to applicant's plant, and the Commission having, in a supplemental order dated June 2, 1913, extended the time limit upon the authority of the previous

order to and including June 1, 1914, and Antelope Creek and Red Bluff Water Company having filed a second supplemental application stating that there is now outstanding under the previous order only one note, said note being of the face value of \$3,500.00, issued May 6, 1914, payable May 6, 1915, to the Bank of Tehama County at the rate of interest of 6 per cent per annum, and that applicant desires not only to renew this note from time to time, but also to issue other notes of the aggregate face value of \$8,500.00 to reimburse applicant's treasury for moneys expended from income, all in accordance with the previous order of the Commission; and it appearing to the Commission that this supplemental application should be granted,

It is hereby ordered that Antelope Creek and Red Bluff Water Company be and it hereby is authorized to issue its promissory notes of the aggregate face value of \$12,000.00 upon the following conditions, and not otherwise, to wit:

1. Said notes shall be issued at a rate of interest not to exceed 6 per cent per annum.

2. Said notes shall be issued so as to net applicant the face value thereof.

3. Applicant may renew the notes herein authorized to be issued from time to time, but in no case shall the term of any note extend beyond February 6, 1916.

4. The \$12,000.00 face value of notes herein authorized to be issued shall include the note now outstanding of the face value of \$3,500.00, payable on May 6, 1915, to the Bank of Tehama County.

5. Applicant shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the notes hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission stating in detail such receipt and disposition of the proceeds of the notes herein authorized, all in accordance with the provisions of this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing order is hereby approved and ordered filed as the second supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of February, 1915.

DECISION No. 2142.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND
POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE
OF A CERTAIN PROMISSORY NOTE.

Application No. 1498.

Decided February 8, 1915.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

San Joaquin Light and Power Corporation having applied to this Commission for authority to issue a promissory note in the sum of \$50,000.00 to Security Trust Company of Los Angeles for a period not to exceed one year, for the purpose of refunding a note in like amount payable to Southern Trust Company (now Security Trust Company), bearing date of April 18, 1911,

And a hearing having been held and it appearing that under the terms of the Public Utilities Act the applicant may issue said note, being for a period of less than one year, without the authority of this Commission,

It is hereby ordered that the application be and it is hereby dismissed without prejudice.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of February, 1915.

DECISION No. 2143.

IN THE MATTER OF THE APPLICATION OF THE VALLEY PIPE LINE
COMPANY FOR AUTHORITY TO ISSUE STOCK.

Application No. 1246.

Decided February 8, 1915.

Applicant authorized to issue additional shares of its capital stock amounting to 3,750 shares of the par value of \$100.00 per share, such stock to be sold at not less than 80, proceeds to be used in the construction of applicant's proposed pipe line from Coalinga fields to Martinez.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

FOURTH SUPPLEMENTAL ORDER.

This Commission, on September 19, 1914, in Decision No. 1805 in the above entitled matter, having authorized the applicant herein to issue 53,184 shares of capital stock of the par value of \$100.00 per share,

and to use the proceeds in the construction of a pipe line from the property of the California Oil Fields, Limited, near Coalinga, in Fresno County, to Martinez, on San Francisco Bay, in Contra Costa County, a distance of approximately 175 miles; and this Commission in said order having provided that said stock should not be issued until applicant filed detailed estimates of cost, and had received supplemental orders from this Commission for such issue;

And this Commission on September 19, 1914, having authorized the issue of 650 shares of said stock; and this Commission on November 5, 1914, having authorized an additional issue of 2,811 $\frac{1}{4}$ shares of said stock; and this Commission on December 22, 1914, having authorized an additional issue of 3,750 shares of said stock; and the applicant now having applied to this Commission for authority to issue an additional 3,750 shares of said stock; and the applicant having submitted estimates and statements of cost as required by this Commission; and it appearing from the examination of these estimates and statements that the authority herein requested should be granted,

It is hereby ordered that the Valley Pipe Line Company be granted authority, and it is hereby granted authority, to issue 3,750 shares of its capital stock of the par value of \$100.00 per share, said stock being a part of the 53,184 shares of capital stock of this applicant heretofore authorized to be issued under certain conditions, as specified in this Commission's Decision No. 1805. The authority herein granted is granted upon the following conditions and not otherwise:

(1) The stock herein authorized to be issued shall be issued to Anglo-Saxon Petroleum Company at a price that shall yield the applicant not less than \$80.00 per share.

(2) The proceeds from the sale of the stock herein authorized to be issued shall be applied upon the cost of construction of that certain pipe line which the applicant has under construction between the property of the California Oil Fields, Limited, near Coalinga, in Fresno County, and Martinez, on San Francisco Bay, in Contra Costa County, in accordance with the plans and specifications filed with this Commission in connection with the application herein, to which reference is hereby made.

(3) The Valley Pipe Line Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the applicant shall make verified reports to the Commission, stating the sale or sales of said stock during preceding months, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing fourth supplemental order is hereby approved and ordered filed as the fourth supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of February, 1915.

DECISION No. 2144.

IN THE MATTER OF THE APPLICATION OF FRANK P. CADY AND RILLA E. CADY, OWNERS OF SUSANVILLE WATER WORKS, FOR AN ORDER AUTHORIZING THE ISSUE OF A NOTE OR NOTES SECURED BY A MORTGAGE UPON SAID SUSANVILLE WATER WORKS FOR THE SUM OF TEN THOUSAND DOLLARS.

Application No. 1511.

Decided February 8, 1915.

Applicants authorized to issue its promissory note in the principal sum of \$10,000.00 in renewal of a note in a like amount.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

This Commission having, in the order made on July 1, 1913, in Application No. 418, authorized Frank P. Cady and Rilla E. Cady, owners of the Susanville Water Works, to issue a promissory note for the face value of \$10,000.00, bearing interest at the rate of 7 per cent per annum and payable two years after date, the proceeds derived from said note to be used to pay certain indebtedness incurred in constructing and extending the system of Susanville Water Works, and applicants herein having issued a promissory note in accordance with the terms of said order, and having now asked authority to issue a new note to refund the note now outstanding, and the Commission being of the opinion that this application should be granted.

It is hereby ordered that Frank P. Cady and Rilla E. Cady, the owners of the Susanville Water Works, be and they are hereby authorized to issue a promissory note of the face value of \$10,000.00, payable two years after date, bearing interest at a rate not to exceed 7 per cent per annum, upon the following conditions, not otherwise, to wit:

1. The note herein authorized to be issued shall be issued for the purpose of taking up and canceling the note heretofore issued in accordance with the order made by this Commission on July 1, 1913, in Application No. 418.

2. Applicants shall make a verified report to the Commission stating the fact of the issue of any note in accordance with this order and the date of such issuance.

3. The authority herein granted shall apply to a note issued prior to April 1, 1915.

It is further ordered that as security for the note herein authorized to be issued applicants may execute a mortgage upon the property of the Susanville Water Works, said mortgage to be substantially in accordance with the terms of the form of mortgage attached to the application in this proceeding and marked "Exhibit 3."

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of February, 1915.

DECISION No. 2145.

THE HUGHSON TELEPHONE COMPANY

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 733.

Decided February 8, 1915.

Complainant, operating a small telephone exchange system, having entered into a territorial agreement with defendant company, alleges that defendant has violated such agreement by serving residents within complainant's territory and petitions the Commission to compel defendant to discontinue such connections.

Held, That prior to the effective date of the Public Utilities Act and prior to the execution of the contract between present parties in interest, defendant company had entered into a contract with disputed patrons, which contract provided Modesto exchange service; that complainant's exchange is located at Hughson, with additional charges for Modesto exchange service, and accordingly the Commission could not compel such subscribers to accept Hughson exchange service in lieu of the more desirable Modesto service. Complaint accordingly dismissed.

F. C. Nickle, for Complainant.

J. W. Gilkyson, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is a complaint by the Hughson Telephone Company, which owns and operates a telephone exchange serving the town of Hughson and contiguous territory in Stanislaus County, alleging that The Pacific Telephone and Telegraph Company is maintaining telephones in its territory in violation of the terms of an agreement which was voluntarily entered into between the two companies on November 8, 1912, and asking the Commission to require The Pacific Telephone and Telegraph Company to discontinue its connections in this territory, and to require the patrons using these telephones to accept such telephone service as they may require through the complainant's exchange.

12-17493

The agreement referred to is of the form commonly in use between The Pacific Telephone and Telegraph Company and its connecting companies, and is designed to provide for an interchange of service and the terms and conditions under which service shall be interchanged by the contracting parties. This agreement in this case defines certain specific territory which both parties agree shall under certain conditions be served exclusively by the complainant's lines, and provides that this complainant shall assume and carry out all of the Pacific Company's unexpired subscribers' contracts within that territory.

The complaint was heard in Hughson on January 15, 1915. Testimony was introduced to the effect that at the time this agreement was entered into and before this Commission acquired jurisdiction in such matters, the Pacific Company was serving 23 or 24 patrons in this territory by lines connecting with its Modesto exchange, 15 of this number still being connected when this complaint was filed, and that since November 8, 1912, one additional telephone was connected within this territory for one Samuel Styles. The defendant claims, however, that when this telephone was connected it was represented to the company that the patron was taking over the service of a former patron, and that it was not aware that a violation of the agreement had occurred. The defendant also testified, as indicated by its formal answer to this complaint, that if the patrons themselves are willing or if it may be released from all liability as regards the responsibility for continuing their present service, it is willing to discontinue the Modesto connection and allow the complainant to serve them through the Hughson exchange.

The contracts which these subscribers now hold provide for unlimited exchange switching with all other subscribers connected with the Modesto exchange at specified yearly rates, no other rate being involved for this service. The complainant, however, has a toll charge in effect for switching over its line between Hughson and Modesto. It is plain, therefore, that if these patrons having contracts with the Pacific Company calling for unlimited switching with Modesto without the payment of additional toll charges were required to relinquish their connection with Modesto for service through Hughson, an added charge for all calls to Modesto would result as long as the complainant's toll charge between these exchanges continues in effect. It follows, therefore, that the complainant can not possibly, without deviating from his present rates, fulfill the obligation which he has assumed in agreeing to carry out all of the Pacific Company's unexpired subscribers' contracts within this territory. The testimony shows further that although efforts have been attempted to induce these people to agree to the change, the complainant has not yet succeeded in persuading them to do so.

So far as these particular fifteen patrons are concerned, since they were receiving Modesto service prior to the Commission's jurisdiction and prior to the time of entering into the contract, and since the complainant can not possibly fulfill the terms of its contract, it is my opinion that they can not reasonably be required to surrender their connection with defendant's Modesto exchange in exchange for a direct connection with the complainant's Hughson exchange, involving an added charge for Modesto service.

With reference to the telephone in use by Samuel Styles, although this telephone was connected at its present location since the contract was entered into and since March 23, 1912, the line with which it is connected was constructed and was connected with the Pacific Company's Modesto exchange prior to either of these dates, and according to the evidence was transferred by a former patron for whom it was also connected prior to those dates to the present user who has succeeded to the former patron's property interests in this locality. It does not appear, therefore, that the connection of this telephone can be regarded as a further extension of the defendant's lines into this territory, or that the present user can be lawfully denied the right to Modesto service over this line.

It will be noted that a violation of the contract which has been entered into by this complainant with the defendant is made the basis of this complaint. This Commission has heretofore withheld its approval of contracts of this nature, and, as has been already pointed out, the complainant is unable to fulfill the terms of its contract so far as service for these patrons is concerned. Nor does it appear that any violation of the provisions of section 50(a) of the Public Utilities Act with reference to the construction of new lines or extensions of existing lines has occurred. I am accordingly of the opinion that this complaint should be dismissed and shall so recommend.

ORDER.

The Hughson Telephone Company having made complaint to this Commission alleging that The Pacific Telephone and Telegraph Company maintains certain telephones within territory purported to be served by the complainant in violation of a certain agreement heretofore voluntarily entered into between said complainant and the said The Pacific Telephone and Telegraph Company, and asking that the defendant, The Pacific Telephone and Telegraph Company, be required to refuse further service within the said territory and that each patron of the said defendant located within the said territory and now receiving service over the defendant's lines be required to transfer his connection to the complainant's exchange at Hughson, and a hearing having been held and the Commission having found as a fact:

(1) That there are as of the date of this complaint sixteen telephones located within territory which was assigned by agreement to the Hughson Telephone Company being served by The Pacific Telephone and Telegraph Company by means of lines connecting directly with its exchange in the city of Modesto.

(2) That of these sixteen telephones fifteen were connected with The Pacific Telephone and Telegraph Company's Modesto exchange prior to March 23, 1912, and prior to the date upon which the agreement hereinabove referred to was entered into by the complainant and the defendant herein.

(3) That the remaining telephone now in use by Samuel Styles, although connected subsequent to March 23, 1912, was not connected in violation of the provisions of section 50(a) of the Public Utilities Act.

(4) That the complainant, the Hughson Telephone Company, has entered into an agreement with The Pacific Telephone and Telegraph Company, the terms of which so far as said terms affect the service of the sixteen telephones mentioned in paragraph one above can not be fulfilled by the complainant under complainant's rates as at present in effect.

And basing its opinion upon the foregoing findings of fact,

It is hereby ordered that the complaint herein be and it hereby is dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of February, 1915.

DECISION No. 2146.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO NATURAL GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS AS COLLATERAL.

Application No. 960.

Decided February 8, 1915.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Sacramento Gas Company, formerly Sacramento Natural Gas Company, having applied to this Commission for an order modifying this Commission's Decision No. 2100, dated January 27, 1915, so as to permit applicant to pledge bonds to the face value of \$200,000.00, heretofore authorized, with the payees and holders of notes to the face value of \$100,000.00,

It is hereby ordered that the conditions imposed by Decision No. 2100, dated January 27, 1915, be amended and modified so as to read:

(1) Bonds herein authorized to be issued shall be pledged as collateral security with the payees or holders of notes, the face value of which notes shall not be less than 50 per cent of the face value of the bonds pledged; and after such use shall be returned to applicant's treasury and issued thereafter only upon the further order of this Commission.

(2) The new promissory notes of the face value of \$100,000.00 issued in renewal of the notes heretofore authorized, shall be issued under such terms and conditions as were prescribed in this Commission's Decision No. 1246, dated January 31, 1914, not in conflict with this order.

(3) The applicant shall report to this Commission on the twenty-fifth day of each month, stating the note or notes issued for the months preceding, the bonds pledged therefor, the amounts received, the rate of interest and the maturity of such notes, and the note or notes canceled by such issue.

Dated at San Francisco, California, this 8th day of February, 1915.

DECISION No. 2147.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR PERMISSION TO INSTALL TELEPHONE PLANT, AND TO PUBLISH, FILE AND PUT INTO EFFECT RATES FOR EXCHANGE AND INTEREXCHANGE SERVICE AT SAN BRUNO, SAN MATEO COUNTY, CALIFORNIA.

Application No. 1422.

Decided February 8, 1915.

Applicant applies for permission to establish an exchange and put into effect a schedule of rates applying to San Bruno and surrounding territory, which application is later amended to eliminate the exchange at San Bruno and in lieu thereof to construct a cable to the South San Francisco exchange, giving San Bruno subscribers South San Francisco exchange service without the mileage charges now in effect, and such arrangement being a considerable improvement over the service now in effect and satisfactory to parties in interest, application granted.

James T. Shaw, for Applicant.

W. J. Locke, of Mason & Locke, and *H. A. Bewley*, city clerk, for City of San Bruno.

H. Loosc, for San Bruno Merchants Association.

J. M. Custer and *Mrs. Glenn Byers*, for the subscribers.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application by The Pacific Telephone and Telegraph Company for permission to install telephone plant and to publish, file and put into effect rates for exchange and interexchange service at San Bruno, San Mateo County, California. The application has been filed as a result of an informal complaint which was lodged with this Commission some months previously by patrons of the telephone company and other residents and business people of San Bruno and Lomita Park to the effect that the present service afforded these communities is inadequate and that the rates charged are detrimental to the community interests and development.

These communities have grown up within the last few years, and by reason of their previous limited development have been provided telephone service heretofore from an exchange located at South San Francisco. Rates for this service for patrons at either San Bruno or Lomita Park involve the payment of mileage charges in addition to schedule rates for one, two or four party service, or what is classified by this company as suburban service can be had without the payment of mileage charges. Suburban service is not looked upon favorably on account of the number of patrons served from each circuit, while the rates involved for the other classes of service are considered excessive on account of the mileage charges.

In its original form this application contemplates the installation of a central exchange in San Bruno and the establishment of rates for exchange service which would eliminate the mileage charges mentioned, and the establishment of interexchange or toll rates for all calls to other points beyond the San Bruno unlimited service area. The establishment of this service, while it would effect certain reductions in present rates through the elimination of mileage charges, would involve the payment of toll charges for all South San Francisco calls, for which these people now pay no toll charges. It was also the intention of the telephone company to provide service during twelve hours of the day only, whereas these people now have service during twenty-four hours through the South San Francisco exchange.

At this hearing the telephone company's representative stated that since this application was filed with the Commission the applicant has found that there is not at present sufficient business in sight to justify the expense which would be involved in installing and operating a central exchange plant at San Bruno, and asked leave to amend the application to the extent of providing for the necessary cable construction between South San Francisco and San Bruno to enable it to serve the San Bruno exchange territory out of its South San Francisco exchange in lieu of installing a physical exchange in San Bruno, and

further to the extent of providing for unlimited switching between South San Francisco exchange and San Bruno exchange without the payment of interexchange or toll rates by subscribers of the two exchanges. In all other respects the application as filed is to remain unchanged and will be considered by the Commission as herein amended.

Although this application was filed to enable the telephone company to satisfy the demand for the location of an exchange in San Bruno, it developed at the hearing that any change in the present arrangement which would shorten the present hours of service or deny the present switching privileges with South San Francisco would meet with opposition. The offer of the company to concede these points and at the same time to eliminate the mileage charges between the two exchanges I believe is eminently fair, and since the people of the interested communities have expressed themselves as being entirely satisfied I shall recommend that the application be granted.

Some uncertainty appeared in the testimony of witnesses with reference to the exact territory which is to be included within the primary rate area of the San Bruno exchange, with particular reference to a section of the city of San Bruno known as Huntington Park. It was agreed, however, that this entire section should be included within the primary rate area, and the company agreed to file with the Commission a revised map clearly and definitely defining the extent of the primary rate area.

The following order is recommended:

ORDER.

Application having been made by The Pacific Telephone and Telegraph Company for permission to install telephone plant, and to publish, file and put into effect rates for exchange and interexchange service at San Bruno, San Mateo County, California, and a hearing having been held, and permission to amend the original application in the particulars which are specifically referred to in the opinion accompanying this order having been asked by counsel for the applicant, and it appearing that the public interest will be subserved by the granting of this application as amended, and no adequate objection appearing.

It is hereby ordered that the application as herein amended be and the same hereby is granted, provided that this permission is not to be taken as approval of the rates for exchange service provided for in the application and exhibits attached thereto, since the Commission has not passed upon their reasonableness.

This order to be and become effective upon its approval.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of February, 1915.

DECISION No. 2148.

CHEDA ESTATE COMPANY

vs.

MARIN WATER AND POWER COMPANY.

Case No. 719.

Decided February 11, 1915.

Complainant alleging that defendant company requires payments of approximately \$20.00 prior to the installation of service, protests such charges and petitions the Commission to require defendant company to discontinue same, and it appearing that defendant no longer collects such advance charges and has agreed not to collect a connection charge unless authorized by the Commission, complaint dismissed.

V. J. B. Cheda, for Complainant.

Joseph Haber, Jr., for Defendant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

The complaint in this case alleges, in effect, that complainant desires a water service from the defendant in the city of San Rafael and has requested the defendant to make the necessary connections and to install a water meter at the point of service; that defendant has refused to make such water connection and to install a meter or to serve any water to complainant until complainant signs the usual application blank with rules attached; that in addition to these requirements, the defendant demands as a condition precedent to the making of any water connection a payment of \$12.00, with a further payment of \$4.00 for installing a water meter, \$3.00 for an iron cover for the water meter and 75 cents for a key to the meter box; and that all these requirements are unjust and unreasonable. The complainant asks that the Commission prescribe such rules, regulations and charges as may seem reasonable and just. A majority of the trustees of the city of San Rafael joined in the complaint.

The answer denies that complainant requested defendant to install a water meter, as alleged in the complaint; denies that defendant has required of complainant the payment of the charges referred to in the complaint; alleges that defendant informed complainant that no charge of \$12.00 would be made for any water connection; alleges that complainant did not inform defendant that he desired a meter, and asks that the complaint be dismissed.

A hearing was held in San Francisco on February 8, 1915.

The evidence shows that complainant desires to have defendant install a water service pipe to serve its premises in the city of San Rafael. Defendant at the hearing stated that it had abandoned the charge of \$12.00 for service connection and that it would hereafter make no charge for meter or meter box unless the Commission in its decision on Case No. 683 should make a contrary ruling.

The complainant objected to signing the application for water on the ground, principally, that under such application the owner would be responsible for water bills incurred by the tenant. The evidence showed that the tenant in this case has a lease for ten years and that he has expended some \$2,500.00 in the improvement of the property. It was finally agreed that the application in this particular case might be made by the tenant, and that the defendant might protect itself in the payment of water bills by the tenant in case it should be necessary for the latter to establish his credit. The application for water in this particular case may be made by the tenant. The owner and the tenant will notify the water company whether they desire a water meter installed.

I submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, and the case having been submitted and being now ready for decision, and the defendant water company having stated that it no longer makes a charge of \$12.00, or any other sum, for a water service connection, and that it will no longer make a charge for meter or meter box unless the Railroad Commission should make a contrary ruling in Case No. 683, and it having been agreed that in this particular case the tenant may sign the application for water and that the water connection will be made and water supplied, as agreed upon at the hearing.

It is hereby ordered that this proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of February, 1915.

DECISION No. 2149.

IN THE MATTER OF THE SCHEDULE OF TARIFF OF RATES AND
CHARGES OF WELLS FARGO AND COMPANY.

Case No. 122.

MERCHANTS AND MANUFACTURERS' ASSOCIATION OF LOS ANGELES

vs.

WELLS FARGO AND COMPANY AND AMERICAN EXPRESS COMPANY.

Case No. 279.

CALIFORNIA CENTRAL CREAMERIES

vs.

WELLS FARGO AND COMPANY.

Case No. 307.

THE COUNTY OF ORANGE

vs.

WELLS FARGO AND COMPANY.

Case No. 312.

Decided February 11, 1915.

The Commission having heretofore established a tentative schedule of rates covering intrastate business of defendant company and it appearing after a trial that the returns thereunder are such as were desired to be established by the Commission, defendant directed to file such schedule within ninety days.

REPORT OF THE COMMISSION.

SUPPLEMENTAL OPINION.

In Decision No. 1269, rendered on February 9, 1914, the Commission prescribed a basis for the construction of rates by Wells Fargo and Company for the transportation of express packages within the State of California.

As explained in this decision, the Commission adopted, with certain modifications, the Interstate Commerce Commission's scale of rates, it appearing that the adoption of this scale of rates would bring about the same or approximately the same results as contemplated by this Commission in its original order. By so doing we hoped to avoid the complications which would follow from having in effect in California one system of rates and on interstate traffic an entirely different system, resulting in the carrier's agents being required to maintain two sets of tariffs. In the interest, therefore, of uniformity the Commission tentatively adopted the Interstate Commerce Commission's system of rate making with such departures only as were necessary to bring about the desired results.

As stated in the decision above referred to, it was the intention of this Commission that the revenues of Wells Fargo and Company on intrastate traffic should be reduced approximately 15 per cent. The defendant was required to keep a record of all traffic received and forwarded for a period of six months, commencing March 1, 1914, at San Francisco, Sacramento, Stockton, San Jose, Fresno, Los Angeles and San Diego, which records would show the amount of revenue derived by the express company under the tentative rates adopted by the Commission and also the revenue which the company would have received under the old scale of rates, which were found unreasonable by the Commission in the original hearing. These records have been kept and furnished the Commission and indicate to our satisfaction that on traffic from and to these seven points based on the present volume of business a reduction of 13.4 per cent has been accomplished.

This percentage of reduction, as above stated, affects only the traffic to and from the seven points mentioned. In addition thereto we have statements of the reductions at a number of other points for the months of July and August, 1914. These statements show in part that in the month of July the reduction at Bakersfield amounted to 27.44 per cent, Chico 21.029 per cent, Grass Valley 14.134 per cent, Porterville 17.368 per cent, San Bernardino 18.88 per cent, Santa Rosa 12.492 per cent and Sonora 17.62 per cent. For the month of August the percentage reduction at Coalinga amounted to 17.565 per cent, Colusa 19.543 per cent, Merced 12.786 per cent and Riverside 21.518 per cent.

We have shown above only a few of the percentage reductions at typical points, but the data furnished indicates that outside of the seven points originally mentioned in the order of the Commission the average reductions for the month of July for a large number of outside points was 14.461 per cent, and for the month of August 17.394 per cent.

Taken as a whole, we may safely assume that the application of the rates prescribed in our decision of February 9, 1914, will bring about substantially the results which we contemplated in Decision No. 841, which was our first order in the so-called express cases.

With a complete readjustment of all express rates and the substitution of an entirely new system of rate making, some conditions are bound to arise which require modification from time to time.

The tariffs of the express company since our Decision No. 1269, above referred to, have been of a temporary character and in a chaotic condition, and while we are issuing this order for the purpose of enabling the defendant to reissue its tariffs, it is expected that such adjustments as will be necessary from time to time will be made by the

defendant without contest, it appearing that such adjustments can be made and the carrier be in the same position as was contemplated under the original order of the Commission.

SUPPLEMENTAL ORDER.

The Commission having heretofore rendered Decisions Nos. 841 and 1269 in the matter of the schedule or tariff of rates of *Wells Fargo and Company*, Case No. 122; *Merchants and Manufacturers' Association of Los Angeles vs. Wells Fargo and Company* and *American Express Company*, Case No. 279; *California Central Creameries vs. Wells Fargo and Company*, Case No. 307; and the *County of Orange vs. Wells Fargo and Company*, Case No. 312, and the required data having been supplied and the Commission being fully advised in the premises.

It is hereby ordered that Wells Fargo and Company be and the same is hereby directed to file within ninety days from the date of this order tariffs covering the transportation of express packages within the State of California in accordance with said Decision No. 1269 and the opinion herein.

Dated at San Francisco, California, this 11th day of February, 1915.

DECISION No. 2150.

LANCASTER CHAMBER OF COMMERCE

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 722.

Decided February 12, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Lancaster Chamber of Commerce, by its president, G. H. Fuller, and secretary, Fletcher J. Swan, having, on February 9, 1915, made written request to the Railroad Commission of the State of California that the complaint entitled as above be dismissed,

It is hereby ordered that the same be, and it is hereby, dismissed without prejudice.

Dated at San Francisco, California, this 12th day of February, 1915.

DECISION No. 2151.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY FOR AN ORDER TO ISSUE FIFTY THOUSAND DOLLARS PAR VALUE OF ITS SIX PER CENT DEBENTURES.

Application No. 1402.

Decided February 12, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant, having made written request to the Railroad Commission of the State of California that the application entitled as above be dismissed,

It is hereby ordered that the same be, and it is hereby, dismissed without prejudice.

Dated at San Francisco, California, this 12th day of February, 1915.

DECISION No. 2152.

CARNEGIE BRICK AND POTTERY COMPANY

vs.

WESTERN PACIFIC RAILWAY COMPANY.

Case No. 382.

Decided February 12, 1915.

Complainants, having made certain shipments of "grog," being materials used in the manufacture of fire brick, from points on the Tesla Branch of defendant's railway, allege that the rates charged thereon of \$1.00 per ton are excessive and also ask reparation in the sum of \$523.59.

Held, That defendant's rate of \$1.00 per ton on clay and grog from Tesla, Walden and Carnegie to Stockton is excessive, rate of 65 cents per ton on carloads of 60,000 pounds established to become effective within twenty days. Complainant being unable to establish the fact that it sustained injury under the higher rate, claims for reparation dismissed.

S. E. Semple, for Complainant.

Allan P. Mathew, for Defendant.

REPORT OF THE COMMISSION.

GORTON, *Commissioner*.

The complainant in this proceeding is a corporation and formerly engaged in the manufacture of clay products at factories owned and operated by it at Walden and Carnegie on the so-called Tesla Branch of the Western Pacific Railway. These factories are not now and have not been in operation for some time. The complainant also owns and operates extensive clay "beds" in the vicinity of its factories from

which it made a number of carload shipments of clay to Stockton for manufacture into fire brick and face brick during the year 1912, after it had discontinued operating its factories. During the same period the complainant also made a number of shipments of grog from Walden and Carnegie to Stockton for a similar purpose. For the transportation of this traffic the defendant charged a rate of \$1.00 per ton of 2,000 pounds from Tesla and a rate of 75 cents per ton of 2,000 pounds from Walden and Carnegie to Stockton. Rates are not specifically published on grog from Walden and Carnegie to Stockton in the tariffs of the defendant on file with this Commission but it appears that the rates applying on clay between those points have been applied on the shipments of grog that have moved—"grog" being a name applied to refractory materials such as pulverized brick, pottery or fire clay and like clay is used in the manufacture of fire brick. The complainant alleges that the rates charged and maintained by the defendant for the transportation of clay and grog from Tesla, Walden and Carnegie to Stockton are unjust, unreasonable and excessive to the extent that they exceed a rate of 50 per cent a ton and it asks that the Commission so find and award reparation on past shipments in the sum of \$523.59.

The defendant admits, subject to verification, that the shipments were made and charges thereon collected as alleged in the complaint but denies that such charges were or are unreasonable, excessive or unjust.

The complainant bases its complaint, in part, on the fact that the defendant has established and concurrently maintains from Walden and Carnegie to Stockton, rates on clay as high as it maintains on fire and face brick, although the latter are manufactured articles of greater value than the clay, and also on the ground that the defendant has established and maintains lower rates on sand, gravel and crushed rock, in carload quantities, from Tesla, Walden and Carnegie to Stockton than it maintains on clay and grog from and to the same points. For the purpose of comparison the rates on these several commodities and the distance between the points involved are set out in the following table:

| To Stockton from - | Distance in miles | Rates on carload quantities per ton of 2,000 pounds. In cents | | |
|--------------------|-------------------|---|------|---------------------|
| | | Crushed rock, sand and gravel | Clay | Fire and face brick |
| Carnegie ----- | 30.8 | 25 | 75 | 75 |
| Walden ----- | 33.3 | 30 | 75 | 75 |
| Tesla ----- | 35.1 | 30 | *100 | 155 |

*Combination of local rates to and from Carnegie.

The complainant further contends that the rates maintained and charged by the defendant on clay and grog, in carload quantities, from Tesla, Walden and Carnegie to Stockton are in excess of the rates

charged by the Southern Pacific Company for the transportation of clay, in carload quantities, from Ione, Valley Springs and Lincoln to Stockton, and as a consequence that it is unable to market its clay in Stockton in competition with the clay shipped to Stockton from those points. The complainant also contends that the rates in question are shown to be unreasonable and excessive when compared with the rates maintained by the Southern Pacific Company on clay, in carload quantities, from Ione, Valley Springs and Lincoln to San Francisco, for materially greater distances, and with the rates maintained by the defendant for the transportation of clay products between points on its own line for similar and greater distances. These comparisons are set out in detail in an exhibit submitted by the complainant at the hearing and marked "Complainant's Exhibit No. 1."

The service from Tesla to Stockton is, in part, over a branch line of railway which produces but a small amount of traffic since the factories at Carnegie and Walden have discontinued operation and there is practically no in-bound tonnage in carload quantities to points located on that branch and but an occasional less carload shipment moves to points thereon. Because of these conditions but an irregular train service is maintained thereover and it appears that, to transport carload shipments of clay or sand from Tesla or Walden or Carnegie to Stockton under the present conditions, it is necessary to operate a special train from Stockton to haul in the empty cars and haul back the loaded cars, never exceeding one or two from the points on the branch. This service is performed by special trains from Stockton, as the traffic from the branch line is not sufficient to warrant the operation of a regular train service, as heretofore stated, and because it is impracticable on account of the light construction of the greater part of this branch, for the heavy engines used in the main line local freight trains to perform this service. The gravel shipped from points on this branch to Stockton is handled differently. It is loaded at a point on the branch but a short distance from the junction point with the main line and the construction of this part of the branch is such as to permit of the operation thereover of the heavy engines used in the main line local freight trains which make side trips from Carbona, the junction point, to handle this particular traffic. It also appears from the record that there is no immediate prospect of the factories at Walden and Carnegie resuming operation or sufficient other traffic being offered to justify the maintenance of a regular service over this branch and also that it is probable that defendant will be compelled to continue to handle such traffic as offers at Tesla, Walden and Carnegie by special trains. The special service, however, is largely at the carrier's convenience, which, to some extent, compensates for its character. Nevertheless, the peculiar con-

ditions surrounding the operation of this branch are sufficient, in my opinion, to distinguish the service to and from points thereon from the service rendered on the main or branch lines of the Southern Pacific Company or of the defendant over which the rates offered in comparison apply, and in my opinion rates to or from points on this branch should be adjusted with regard to this singular condition.

However, I am not satisfied from the evidence that this branch line is operated at a loss, as the defendant contends. In the exhibits submitted by it at the hearing to support this contention the revenue received from traffic between points on the branch line and other points on the defendant's line is apportioned between the respective portions of its line on a mileage basis, under which theory it appears that the defendant has disregarded the usual contention that rates involving a branch line service are made relatively higher per mile than main line rates to compensate for the relatively higher cost of operation. If this be correct in this case and defendant's rates are so adjusted it would appear to follow that in dividing the earnings between the branch and main line on a mileage basis, consideration should be given to this feature and compensated mileage allowed the branch line instead of straight mileage, as has been done in this case. What the results would be were such a basis used it is impossible to determine from the evidence, as sufficient data was not furnished to reconstruct the defendant's exhibits accordingly. Again, while it was stated that the operating expenses shown in defendant's exhibits were the actual expenses incurred in operating the branch line only, it is not clear how the actual branch line expenses for maintenance of equipment, wages of train and engine crews and fuel and supplies for locomotives, as shown in the exhibit, can be ascertained except on a basis of apportionment when such equipment and crews were engaged in both branch and main line service.

As appears from the table of rates hereinbefore set out, the rates on sand and gravel are materially lower than the rates on clay between Tesla, Walden and Carnegie and Stockton and while the complainant does not contend that the rates on clay should be on the same basis as the rates on sand and gravel, nor does the evidence convince me that this should be the case, I do not believe that such a difference as is maintained is justified by the surrounding transportation conditions. I am also of the opinion that the defendant should maintain lower rates on clay from Carnegie and Walden to Stockton than it maintains on fire and face brick, manufactured articles of somewhat greater value than the clay. The fact that the complainant is at a disadvantage in marketing the clay shipped by it from points on the Tesla Branch to Stockton in competition with clay shipped from pits located on the Southern

Pacific Company's line to the same market, is a condition which this Commission is not empowered to equalize by adjusting transportation rates in the absence of a showing that the conditions surrounding the service in each case are similar.

After a full consideration of all of the evidence I find that the rates charged and maintained by the defendant for the transportation of clay, in earload quantities, from Tesla, Walden and Carnegie to Stockton are unjust, unreasonable and excessive and that a just and reasonable rate for the transportation of clay in earload quantities of 60,000 pounds or more from Tesla, Walden and Carnegie to Stockton is 65 cents per ton of 2,000 pounds.

The shipments of clay and grog upon which the complainant bases its claim for reparation were forwarded to Stockton for manufacture into fire and face brick to fill certain orders which had been accepted by the complainant before its plants at Carnegie and Walden had closed down and the price of the brick was based upon its manufacture at those points. The complainant admits that in no case were the bricks sold without profit, but it contends that its profit should be increased to the extent that the present rates on clay from Walden and Carnegie to Stockton are found to be excessive. In my opinion such a showing is not sufficient to justify an award of reparation. In addition to proving that the rate at the time it was charged was excessive, it should be shown by the claimant for reparation that some damage or injury was sustained by it by reason of the imposition of such excessive rate. In other words, claimant for reparation must not merely show a wrong of the carrier but that that wrong has in fact operated to its injury, as was held by the Supreme Court of the United States—in *Parsons vs. Chicago and Northwestern Railway Company*, 160 U. S. 447. I am of the opinion, therefore, that reparation should be denied.

I submit the follow form of order:

ORDER.

The complaint and answer having been filed in the above entitled proceeding, and a public hearing having been held thereon, and a full investigation of the matters and things involved having been had, and the Commission having made the findings of fact which are contained in the opinion which precedes this order and on which this order is based,

It is hereby ordered that the Western Pacific Railway Company publish and file in a tariff with this Commission, to become effective twenty days from the date of this order, a rate of 65 cents per ton of 2,000 pounds on clay in earload quantities of 60,000 pounds or more from

Tesla, Walden and Carnegie to Stockton, California, which rate is found to be just and reasonable and is hereby established as a just and reasonable rate to be charged.

It is further ordered that as to the other matters involved the complaint be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of February, 1915.

DECISION No. 2153.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND
EASTERN RAILWAY FOR AUTHORITY TO ISSUE TWO NOTES.

Application No. 1492.

Decided February 12, 1915.

REPORT OF THE COMMISSION.

ORDER RESCINDING PREVIOUS ORDER.

This Commission having heretofore, on January 20, 1915, issued its order in the above entitled matter (Decision No. 2094) authorizing Oakland, Antioch and Eastern Railway to mortgage certain real estate in the city of Sacramento, and to issue two notes as follows: One note to Sebastiane and Edward Ceechettini in the sum of \$23,000.00; one note to Louis Caffaro in the sum of \$35,000.00.

And Mr. Jesse H. Steinhart, attorney for applicant, having made written request of this Commission, under date of February 5, 1915, that the order heretofore issued in this matter be rescinded for the reason that the authorization to issue the notes heretofore referred to is not now desired nor required by said Oakland, Antioch and Eastern Railway,

It is hereby ordered that the order of this Commission in the above entitled matter, dated January 20, 1915 (Decision No. 2094), be and it is hereby rescinded.

Dated at San Francisco, California, this 12th day of February, 1915.

DECISION No. 2154.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY AND THE FRESNO TRACTION COMPANY FOR THE APPROVAL OF A CERTAIN LEASE AND AGREEMENT BETWEEN SUCH COMPANIES COVERING A LEASE OF RAILROAD AND APPURTENANCES FROM A POINT NEAR MUSCATEL STATION TO A POINT IN SECTION 16, TOWNSHIP 13 SOUTH, RANGE 18 EAST, M. D. B. AND M., A DISTANCE OF 8.1 MILES.

Application No. 1481.

Decided February 23, 1915.

Applicants authorized to enter into an operating agreement whereby the Southern Pacific Company operates a certain section of track of the Fresno Traction Company recently constructed and not as yet connected with the system of the latter named company, provided that this Commission or other proper authorities shall reserve the right to alter or amend such contract if justified.

Guy V. Shoup, for Applicants.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This is an application filed by the Southern Pacific Company and the Fresno Traction Company asking the Commission to approve a certain lease and agreement attached to the application as Exhibit "A." The application states that all of the stock of the Fresno Traction Company, with the exception of directors' shares, is owned by the Southern Pacific Company, which company has advanced to the Traction Company all the money necessary to construct this line of railroad, which extends from near Muscatel, a station on the Southern Pacific, to a point in section 16, township 13 south, range 18 east, M. D. B. and M. It is the intention that eventually this piece of line shall become part of the interurban system of the Fresno Traction Company, but at the present time there is no connection between the rails of the Fresno Traction Company and this piece of track and it is the desire of both parties that the Southern Pacific Company operate this track for the Fresno Traction Company until such time as the connection is built, the line electrified, and this track becomes part of the system of the Fresno Traction Company. The Southern Pacific Company advanced all the money for the construction of this line, and the lease and agreement under which it is proposed that the Southern Pacific operate the line covers the necessary financial arrangements between the companies.

The lease can be terminated on ninety days' notice by either party. All contracts for the operation of cars over this line assumed by the Fresno Traction Company in its right of way agreements will be assumed by the Southern Pacific Company, and as a matter of fact the Southern Pacific has been operating this line since about December 1, 1913, the date on which this piece of track was completed.

No objection was made at the hearing for the granting of this application, and I see no reason why the Commission should not grant it, subject to certain conditions.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

Southern Pacific Company and Fresno Traction Company having applied to the Commission, under the provisions of section 51 of the Public Utilities Act, for an order authorizing the execution of a certain lease and agreement affecting the possession and operation of a certain line of railroad of the Fresno Traction Company, between Muscatel and a point in section 16, township 13 south, range 18 east, M. D. B. and M., a copy of which lease and agreement was attached to the application and marked Exhibit "A," and a public hearing having been held, and no one appearing in opposition thereto, and there being no apparent reason why the application should not be granted,

It is hereby ordered that this application be and the same hereby is granted upon the condition that this Commission, or other competent public authority, shall at all times have the right to revise or alter all terms or provisions of the said agreement.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of February, 1915.

Decisions Nos. 2155, 2156, 2157, 2158 and 2159, grade crossings; not printed.
See end of volume.

DECISION NO. 2160.

POSTAL TELEGRAPH CABLE COMPANY
vs.
NORTHERN CALIFORNIA POWER COMPANY.

Case No. 667.

Decided February 23, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled proceeding having, on February 11, 1915, made written request to the Commission that the complaint be dismissed,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 23d day of February, 1915.

DECISION No. 2161.

IN THE MATTER OF THE COLLECTION BY RAILROADS OF SWITCHING CHARGES FOR SWITCHING CARLOAD FREIGHT TO OR FROM INDUSTRY TRACKS OR PRIVATE SIDINGS WHEN INCIDENTAL TO LINE HAUL.

Case No. 630.

Decided February 23, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

On June 29, 1914, the Commission made an order instituting an investigation on its own motion into the reasonableness of switching charges for handling intrastate carload freight to or from industry tracks or private sidings when incidental to line haul.

Since instituting this investigation, several of the larger lines have conferred with representatives of the Commission with the result that the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, Western Pacific Railway Company and San Pedro, Los Angeles and Salt Lake Railroad Company have agreed to file tariffs with the Commission canceling switching charges in practically all cases.

The object of the Commission's investigation having thus been accomplished informally there exists now no reason for trying this case and an order of dismissal will be entered.

It is hereby ordered that the above entitled case be and the same is hereby dismissed.

Dated at San Francisco, California, this 23d day of February, 1915.

DECISION No. 2162.

IN THE MATTER OF THE WRECK ON THE LINE OF THE YOSEMITE VALLEY RAILROAD COMPANY BETWEEN THE STATIONS OF MERCED FALLS AND EL PORTAL.

Case No. 632.

Decided February 23, 1915.

REPORT OF THE COMMISSION.

The Commission having previously made an investigation and put into effect certain orders regarding the Yosemite Valley Railroad, and a reinspection of the line having been made, and it appearing that the track and roadway are now in such condition that the requirements of the Commission's former orders are no longer necessary,

It is hereby ordered that the Commission's previous orders in this case are hereby annulled, with the understanding that the Yosemite Valley Railroad Company will issue a new time card to carry speed restrictions as follows:

"Freight trains will not exceed a speed of 25 miles per hour between Merced and Merced Falls, nor a speed of 20 miles per hour between Merced Falls and El Portal.

"All trains will reduce speed to 8 miles per hour within yard limits at Exchequer, Jasper and Bagby.

"Trains will not exceed a speed of 15 miles per hour through Box Canyon, between Goff and Exchequer, Mountain King and a point two (2) miles east of Bagby, and over Merced River bridges near Hopeton, Pleasant Valley, Bagby, North Fork, and Bridge 35-A."

It is further understood that slow orders will be issued covering the following places:

Track west of Briceburg about a mile and one half in length.

One quarter mile of track east of the west mile post at Exchequer.

About a mile of track in the vicinity of Station 1530.

It is further understood that thirty thousand (30,000) ties will be placed by the Yosemite Valley Railroad Company during the coming year, and also when the necessary repairs are made for the three stretches of track mentioned above and to be covered by slow orders, the company may remove these slow orders and resume its schedule over these points. Before the schedule is resumed, however, the company will notify the Commission that this work is done, and further inspection will be made if necessary.

Dated at San Francisco, California, this 23d day of February, 1915.

DECISION No. 2163.

IN THE MATTER OF THE APPLICATION OF POMONA VALLEY TELEPHONE AND TELEGRAPH UNION FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF ONE HUNDRED THOUSAND DOLLARS.

Application No. 400.

Decided February 23, 1915.

REPORT OF THE COMMISSION.

This Commission having, on March 11, 1913, authorized Pomona Valley Telephone and Telegraph Union to issue \$100,000.00 face value of its 6 per cent bonds, payable March 1, 1938, upon certain conditions,

and the effective date of the authority so granted having been extended to February 28, 1915, and Pomona Valley Telephone and Telegraph Union having applied for a further extension of the effective date to February 28, 1916, and also that applicant be given authority to issue its bonds at 95 per cent of the face value thereof, instead of at face value, as provided in the Commission's order, and the Commission being of the opinion that applicant's request is reasonable and that it should be granted,

It is hereby ordered that the effective date of the order heretofore made in this proceeding on March 11, 1913, be and the same is hereby extended from February 28, 1915, to and including February 29, 1916.

It is further ordered that applicant be and it is hereby authorized to issue at 95 per cent face value, such bonds authorized to be issued by the order heretofore made in this proceeding on March 11, 1913, but which remain unissued, said bonds to be issued in all other respects subject to the condition specified in said order.

Dated at San Francisco, California, this 23d day of February, 1915.

DECISION No. 2164.

IN THE MATTER OF THE APPLICATION OF CONSOLIDATED WATER COMPANY OF POMONA FOR PERMISSION TO ISSUE \$59,894.85 OF NOTES.

Application No. 1529.

Decided February 21, 1915.

Applicant applies for permission to issue notes of the face value of \$59,894.85 and it appearing that a portion of such notes are not as yet due, application authorized to renew notes of the face value of \$43,100.00, balance of application denied without prejudice to its renewal when notes affected have matured.

G. A. Lathrop, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

In this application Consolidated Water Company of Pomona asks for authority to renew certain promissory notes of a total principal sum of \$59,894.85. After an examination of these notes, I find that notes in the sum of \$43,100.00 are now due or past due, but that notes for the balance have not yet matured.

This company has applied to this Commission for permission to sell its system to the city of Pomona and has requested that this Commission

hold a hearing and determine the value of its property. The applicant has an outstanding issue of \$175,000 of bonds and has a listed floating indebtedness of approximately \$60,000.00. At the hearing, it was stipulated that any authorization which might be given in this matter to the applicant to issue notes should not be binding, or evidence to be considered in any proceeding hereafter to be held to fix the values for the properties of this applicant.

For the calendar year of 1913, this applicant reported as follows:

| | |
|--------------------------------|-------------|
| Gross operating revenue | \$63,402 38 |
| Gross operating expenses | 40,612 97 |
| Net revenue | \$22,789 41 |
| Interest deductions | 16,017 98 |
| Surplus for year | \$6,771 43 |

I recommend that the application be granted as to the issue of notes in the sum of \$43,100.00 and that it be denied as to the remaining notes without prejudice to the right of the applicant to apply for the refunding of such other notes as it may have outstanding when these notes mature or are about to mature. Accordingly, I recommend the following form of order:

ORDER.

Consolidated Water Company of Pomona having applied to this Commission for authority to issue notes in the sum of \$59,894.85 to refund a like amount of notes now outstanding, and a hearing having been held and it appearing that the proceeds derived from the notes in the sum of \$43,100.00 were not reasonably chargeable to operating expenses or to income.

It is hereby ordered that Consolidated Water Company of Pomona be granted authority and is hereby granted authority to issue promissory notes to the face value of \$43,100.00.

It is further ordered that the application of Consolidated Water Company of Pomona to issue notes to the face value of \$16,794.85 be and it is hereby denied without prejudice.

The authority herein given to applicant to issue \$43,100.00 of promissory notes is given upon the following conditions and not otherwise:

(1) The notes herein authorized to be issued shall be issued for the following purposes:

(a) To refund the following notes:

| In favor of | Date of issue | Date due | Rate | Amount |
|-----------------------------------|----------------|----------------|------|-------------|
| Geo. Tavener ----- | Sept. 20, 1910 | Sept. 20, 1913 | 6% | \$500 00 |
| T. Smart ----- | June 1, 1911 | June 1, 1912 | 7% | 1,000 00 |
| L. C. Meredith ----- | June 30, 1911 | June 30, 1912 | 7% | 2,500 00 |
| L. C. Meredith ----- | Nov. 18, 1912 | Nov. 18, 1914 | 7% | 1,000 00 |
| Wash Hunt ----- | July 13, 1911 | July 13, 1912 | 7% | 5,000 00 |
| Wash Hunt ----- | April 9, 1912 | Demand | 7% | 2,000 00 |
| W. H. Bartlett ----- | Oct. 1, 1911 | Oct. 1, 1912 | 7% | 4,000 00 |
| Mabel H. Dills ----- | Oct. 2, 1911 | Oct. 2, 1913 | 7% | 6,200 00 |
| Thos. B. Evans ----- | Jan. 5, 1912 | Jan. 5, 1914 | 7% | 2,500 00 |
| H. B. Davis ----- | July 1, 1912 | One day | 7% | 5,000 00 |
| H. B. Davis ----- | Nov. 6, 1912 | May 6, 1913 | 7% | 4,000 00 |
| Mary I. Yost ----- | July 20, 1912 | July 20, 1914 | 7% | 400 00 |
| Clara J. Pierce ----- | Jan. 23, 1913 | Jan. 23, 1915 | 7% | 1,000 00 |
| F. E. Graham ----- | Feb. 24, 1913 | One day | 7% | 1,000 00 |
| First National, Los Angeles ----- | April 16, 1913 | | | 3,000 00 |
| B. C. Lattin ----- | Nov. 1, 1913 | Demand | | 4,000 00 |
| Total ----- | | | | \$13,100 00 |

(b) To renew notes issued to refund the notes listed in subdivision "a" above on condition that such renewals shall mature not later than June 30, 1916.

(2) The notes herein authorized to be issued shall mature not later than June 30, 1916, and shall bear a rate of interest not to exceed seven per cent per annum.

(3) The notes herein authorized to be issued shall be issued so as to net the applicant the face value thereof.

(4) The applicant shall report to this Commission on the twenty-fifth day of each month stating the notes issued under the order herein and the notes refunded or retired through such issue.

(5) The authority herein given to issue the notes herein authorized shall not be urged before this Commission, or before any other board or tribunal of this State with power to fix rates or to determine the value of public utility properties, as indicating a finding of value by this Commission of the properties of this applicant.

(6) The authority herein given is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

(7) The authority herein given shall apply to such notes as shall have been issued on or before June 30, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of February, 1915.

DECISION No. 2165.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF A PROMISSORY NOTE OF THE FACE VALUE OF FIFTEEN THOUSAND DOLLARS.

Application No. 1043.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF A PROMISSORY NOTE OF THE FACE VALUE OF NINETEEN THOUSAND DOLLARS.

Application No. 1067.

Decided February 24, 1915.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

It appearing that in renewing the note of the face value of \$19,000.00 which, by orders heretofore made in these proceedings, Los Angeles and San Diego Beach Railway Company is authorized to issue to Citizens National Bank of Los Angeles, applicant desires to issue two notes of the face value of \$15,000.00 and \$4,000.00, respectively, instead of issuing one note of the face value of \$19,000.00, and the Commission being of the opinion that this request is reasonable and that it should be granted,

It is hereby ordered that in renewing applicant's note of the face value of \$19,000.00 payable to Citizens National Bank of Los Angeles, in accordance with the authority heretofore granted by this Commission, applicant may, in lieu of issuing one note of the face value of \$19,000.00, issue two notes of the face value of \$15,000.00 and \$4,000.00 respectively, providing, that in all other respects the renewal notes shall be issued in accordance with the orders heretofore made in these proceedings.

Dated at San Francisco, California, this 24th day of February, 1915.

DECISION No. 2166.

IN THE MATTER OF THE APPLICATION OF SANTA BARBARA GAS AND ELECTRIC COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF THE RIGHTS AND PRIVILEGES UNDER A CERTAIN FRANCHISE GRANTED TO IT BY THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA.

Application No. 1476.

Decided February 24, 1915.

Applicant to be granted a certificate of public convenience and necessity authorizing the construction of a gas distributing system in territory adjacent to the city of Santa Barbara, provided, it shall not claim a value beyond the actual cost of such franchise and shall be willing to sell, at a fair valuation, its property to either the city or county of Santa Barbara.

H. H. Trowbridge, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner.*

Santa Barbara Gas and Electric Company, engaged in the business of distributing and selling gas and electricity in the city of Santa Barbara, Santa Barbara County, makes application herein for a certificate that public convenience and necessity require that it exercise the rights and privileges granted to it by Ordinance No. 366, approved by the board of supervisors of the county of Santa Barbara, dated December 8, 1914.

This ordinance granted to Santa Barbara Gas and Electric Company a franchise to construct, maintain and operate for a term of fifty years a gas distributing system within the territory therein described, which embraces sections contiguous to or near the city of Santa Barbara, known as Montecito, Miramar, Sycamore Canyon and extending as far south as Summerland. The principal conditions enumerated in the franchise may be summarized as follows:

(1) The gas distributing system and such pipes and pipe lines and other appliances are to be laid, constructed, maintained and operated, according to the statutes of the State of California and ordinances of the county of Santa Barbara as may be applicable thereto.

(2) That every pipe laid and maintained under said franchise shall be laid not less than eighteen inches underground.

(3) That Santa Barbara Gas and Electric Company before taking up or removing any pavement or making any excavations in any traveled portion of the public highway shall secure the permission from the board of supervisors of the county of Santa Barbara or from the supervisor of the district wherein such highway is located, to do the proposed work.

The work of laying or repairing the pipe line and appliances shall be conducted with the least possible hindrance to the use of the highway for the purposes of travel.

(4) Every pipe laid and maintained under this franchise shall be laid along the sides of the highway and shall be within fifteen feet from the property line on all highways sixty feet or less in width, or within five feet of the curb line in all other streets. It shall not be nearer than three feet to the macadamized portions of all macadamized roads.

The pipe shall be laid and maintained so as not to interfere with the pavement or any culvert or culverts now or hereafter to be laid or constructed; the pipe shall be laid or maintained so as not to destroy or injure any tree or trees now standing or growing which shall be planted in or along any of the highways.

(5) Santa Barbara Gas and Electric Company shall begin construction work within four months from the date of this franchise. The entire distributing system must be completed within three years after the beginning of the construction work.

(6) Santa Barbara Gas and Electric Company, its successors, or assigns, shall during the life of the franchise pay to the county of Santa Barbara, in lawful money of the United States, two per cent of the gross annual receipts of the Santa Barbara Gas and Electric Company, its successors or assigns, arising from the use, operation, or possession of this franchise. Provided that no percentage shall be paid during the first five years succeeding the date of the franchise.

(7) The franchise shall be forfeited if the company fails to comply with any of the terms and conditions under which it was granted.

The section which applicant proposes to serve under this franchise includes a residential territory in which are located extensive estates and elaborate summer homes. This section is now without gas service.

Notices were sent to other public utility corporations, which might be interested in this application, but no objection was interposed at the hearing.

I believe that the interests of the city of Santa Barbara and the county of Santa Barbara, as well as the public generally, require that certain stipulations should be entered into before the applicant be given a certificate that public convenience and necessity require it to exercise the rights granted under this ordinance. I believe such a stipulation should include an agreement that the company will not urge any value in the franchise beyond the amount paid in case of public purchase or for the purposes of rate fixing; and that the applicant shall agree further that the county of Santa Barbara, or the city of Santa Barbara, or other municipal corporation shall have the right at any time to take over all or a portion of the properties built under this franchise at a price to be fixed by the Railroad Commission.

Accordingly, I recommend the following form of order:

ORDER.

Santa Barbara Gas and Electric Company having applied to this Commission for a certificate that public convenience and necessity require the exercise by it of the rights and privileges granted to it by the county of Santa Barbara by Ordinance No. 366, approved by the board of supervisors of Santa Barbara County on December 8, 1914, a copy of said ordinance having been filed with this Commission in connection with the application herein and marked Exhibit "B" and a hearing having been held,

It is hereby found as a fact that public convenience and necessity require the exercise by Santa Barbara Gas and Electric Company of the rights and privileges granted by said ordinance upon the following conditions and not otherwise:

(1) That Santa Barbara Gas and Electric Company shall enter into a stipulation with the county of Santa Barbara that it accepts the franchise granted by said Ordinance No. 366 subject to the following conditions:

(a) That Santa Barbara Gas and Electric Company will not urge any value in the franchise beyond the amount paid therefor in any proceeding held for the purposes of fixing rates, or in any proceeding in which the city of Santa Barbara, the county of Santa Barbara, or other public corporation may desire to acquire the properties built under said Ordinance No. 366.

(b) That Santa Barbara Gas and Electric Company will agree that the county of Santa Barbara, the city of Santa Barbara, or other municipal corporation shall have the right at any time to take over the properties built under the franchise granted by said Ordinance No. 366, or a portion of such properties, at a price to be fixed by the Railroad Commission.

It is hereby ordered that the findings herein shall become effective when this Commission shall have found by supplemental order that the applicant has complied with the conditions set out in this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of February, 1915.

DECISION No. 2167.

DON P. JONES, AND MRS. D. P. JONES, HIS WIFE.

vs.

AMERICAN EXPRESS COMPANY.

Case No. 354.

Decided February 24, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled case having, on February 17, 1915, made written request to this Commission that the above entitled case be dismissed,

It is hereby ordered that the above entitled case be, and the same is, hereby dismissed.

Dated at San Francisco, California, this 24th day of February, 1915.

DECISION No. 2168.

IN THE MATTER OF THE APPLICATION OF CLAREMONT DOMESTIC WATER COMPANY FOR AUTHORITY TO ISSUE NOTES TO THE AMOUNT OF \$30,000.00.

Application No. 1468.

Decided February 24, 1915.

Applicant authorized to mortgage its property to secure an indebtedness of \$30,000.00, and to issue thereunder its notes of the value of \$20,000.00, proceeds thereof to be used partly to refund a note now outstanding, the balance for certain necessary additions to its system.

L. T. Gillett, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Claremont Domestic Water Company supplies domestic and irrigating water to the inhabitants of the city of Claremont, Los Angeles County, and vicinity. In this proceeding, it petitions for authority to execute a mortgage of its properties and to issue a note or notes in a sum not to exceed \$30,000.00. The applicant proposes to issue its note or notes in an amount not to exceed \$20,000.00 and to issue the remaining \$10,000.00 as its needs may require. It is proposed by Claremont Domestic Water Company to retire an indebtedness of \$8,500.00 and to use \$11,500.00 for extending its pipe system in order to afford better fire protection to

the city of Claremont. The company was directed to make this extension under Decision No. 1677 of this Commission.

In connection with Application No. 1144, the engineering department of this Commission estimated the reproduction value of applicant's properties, exclusive of water rights and certain other items, at \$45,964.00. The estimated depreciated reproduction value was submitted in the sum of \$34,364.00.

The indebtedness of the applicant is represented by a promissory note to Pomona College dated January 1, 1914, and maturing January 1, 1917, bearing interest at the rate of seven per cent per annum. The other indebtedness consists of current bills of small amount. It appears that this note to Pomona College was executed in violation of the terms of the Public Utilities Act and that an authorization would be required for a new note to replace the one issued were it not for the fact that the applicant herein proposes to refund this indebtedness.

For the calendar year 1914, the applicant submitted a statement of earnings as follows:

| | |
|------------------------------|-------------|
| Operating revenue ----- | \$12,110 53 |
| Operating expenses ----- | 8,242 11 |
| Net operating revenue ----- | \$3,868 42 |
| Other income ----- | 62 54 |
| Gross corporate income ----- | \$3,930 96 |
| Rent expense ----- | 150 00 |
| Balance ----- | \$3,780 96 |

Dividends were paid in the sum of \$3,502.50 and the balance carried to surplus.

It is proposed by the applicant to borrow the sum of \$20,000.00 from Pomona College, which is located at Claremont.

The proposed improvements consist of approximately 9,700 linear feet of 10-inch pipe and 3,000 feet of No. 4 Mathewson leaded joint pipe to be laid from the reservoir of the applicant to the business portion of the city of Claremont.

The applicant has not submitted a copy of its proposed mortgage and deed of trust and a supplemental order will, therefore, be necessary to approve the form of mortgage or deed of trust.

In view of the necessity for the extensions for fire protection and in view, also, of this applicant's general financial condition, I recommend that the application be granted and submit the following form of order:

ORDER.

Claremont Domestic Water Company having applied to this Commission for authority to execute a mortgage of its properties in a total sum of \$30,000.00 to Pomona College, and Claremont Domestic Water Com-

pany having applied to this Commission for authority to issue its ten-year note or notes in the amount of \$30,000.00, and having requested authority to issue \$20,000.00 of said note or notes at this time, and a hearing having been held and it appearing that the purposes for which the applicant desires to issue said note or notes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Claremont Domestic Water Company be granted authority and is hereby granted authority to mortgage its properties to Pomona College to secure an indebtedness not to exceed the sum of \$30,000.00.

It is further ordered that Claremont Domestic Water Company be granted authority and is hereby granted authority to issue its ten-year note or notes to Pomona College in a sum not to exceed \$20,000.00 under the terms of said mortgage.

The authority herein given is given upon the following conditions and not otherwise:

(1) The note or notes herein authorized to be issued shall bear interest at a rate not to exceed seven per cent per annum and shall mature not later than ten years from date of issue.

(2) Said note or notes shall be sold so as to secure to the applicant herein the face value thereof plus accrued interest thereon.

(3) The proceeds from the sale of said note or notes shall be used for the following purposes:

| | |
|---|-------------|
| (a) For installing high pressure fire mains and hydrants with accessories to serve the city of Claremont..... | \$11,500 00 |
| (b) To refund indebtedness to Pomona College..... | 8,500 00 |

| | |
|-------------|-------------|
| Total | \$20,000 00 |
|-------------|-------------|

(4) Claremont Domestic Water Company shall keep true, separate and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the note or notes hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said note or notes during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

(5) The authority herein granted shall become effective only after this Commission shall have issued a supplemental order approving applicant's mortgage or deed of trust, under which the note or notes herein authorized are to be issued.

(6) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed in the Public Utilities Act.

(7) The authority herein granted shall apply to such note or notes as shall have been issued on or before January 1, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of February, 1915.

DECISION No. 2169.

IN THE MATTER OF THE APPLICATION OF STANDARD CONSOLIDATED MINING COMPANY FOR AUTHORITY TO SELL ALL OF ITS PROPERTY IN MONO COUNTY, CALIFORNIA, TO J. S. CAIN.

Application No. 1534.

Decided February 24, 1915.

Standard Consolidated Mining Company, operating a small electrical system authorized to sell same together with its other property to J. S. Cain, provided the price paid therefor shall not be taken before a rate fixing body as a proper value for rate fixing purposes.

Samuel C. Weil, for Applicants.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

Standard Consolidated Mining Company owns certain mining property in Mono County, California, and proposes to sell all of this property to J. S. Cain for \$25,000.00 cash and the cancellation of a claim of \$700,000.00 for ore which Mr. Cain states has been extracted from property owned by him adjacent to property owned by the mining company. A suit is now pending for the collection of this claim.

The operations of Standard Consolidated Mining Company consist almost entirely of mining, though the company operates a small hydro-electric system to run the mine. This system consists of a 250 h. p. plant on Green Creek, Mono County, California, and a transmission line some thirteen miles in length, from the plant on Green Creek to the town of Bodie, in which the mine is situated. In addition to serving the mine with electric energy some ten or twelve inhabitants of the town of Bodie, which is an unincorporated community, are also served. A telephone line is operated from the plant on Green Creek to the mine in Bodie, though there are no persons within the town of Bodie supplied with telephone service other than the mine itself.

Mr. Cain expects to continue operating the mine, and will continue to operate the electric power system.

A form of deed conveying the property from Standard Consolidated Mining Company to J. S. Cain is attached to the application and marked

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"Exhibit A," and I recommend that applicants be given authority to transfer the property in accordance with the terms of this deed.

I submit herewith the following form of order:

ORDER.

Standard Consolidated Mining Company having applied for authority to transfer certain property in Mono County to J. S. Cain for the sum of \$25,000.00 cash and the cancellation of a claim of \$700,000.00, which J. S. Cain alleges that he holds against the company, the property to be transferred including a small hydroelectric system supplying electric light to the inhabitants of the town of Bodie, the transfer to be made in accordance with the terms and conditions of the form of deed attached to the application in this proceeding and marked "Exhibit A," and a public hearing having been held in this matter and the Commission being duly advised,

It is hereby ordered that Standard Consolidated Mining Company be, and it is hereby, authorized to transfer to J. S. Cain certain public utility property in Mono County, California, the property to be transferred and the terms and conditions of the conveyance to be as set forth in the form of deed attached to the application in this proceeding and marked "Exhibit A," upon the following conditions, and not otherwise, to wit:

The consideration given for the property herein authorized to be transferred shall not be taken before this Commission, nor any other public body, as representing for rate fixing or other purposes the value of the public utility property transferred.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of February, 1915.

DECISION No. 2170.

IN THE MATTER OF THE APPLICATION OF OCEANSIDE ELECTRIC AND GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF PROMISSORY NOTES OF THE FACE VALUE OF TWELVE THOUSAND FOUR HUNDRED TWENTY-TWO DOLLARS.

Application No. 1521.

Decided February 21, 1915.

R. D. Locoe and Eugene V. Griffiths, for Applicant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

Oceanside Electric and Gas Company having applied to the Railroad Commission for an order authorizing the issue of the promissory notes

hereinafter referred to, for the purpose of refunding outstanding promissory notes in the same amounts, as hereinafter specified, and a public hearing having been held on said application in the city of San Diego on February 19, 1915, and the Commission finding that the purposes for which the promissory notes which applicant desires to refund were issued, are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application is simply for the purpose of securing an order to refund promissory notes which applicant was heretofore authorized to issue under this Commission's Decision No. 1279, rendered on February 17, 1914, in Application No. 951.

It is hereby ordered that Oceanside Electric and Gas Company be, and the same is hereby, authorized to execute its promissory notes to the payees hereinafter designated, in the amounts specified, for a term not in excess of one year, as follows:

| | |
|---|------------|
| Bank of Oceanside | \$2,500 00 |
| First National Bank of Oceanside..... | 1,700 00 |
| Farmers and Merchants Bank of Long Beach..... | 5,000 00 |
| Farmers and Merchants Bank of Long Beach..... | 1,000 00 |
| First National Bank of Oceanside..... | 1,000 00 |
| W. S. Hargreaves | 500 00 |
| Smith, Booth & Usher..... | 742 00 |

On the following condition and not otherwise, to wit:

1. Oceanside Electric and Gas Company shall issue said promissory notes at not less than their face value and at an interest rate not in excess of 8 per cent per annum.

2. Oceanside Electric and Gas Company shall issue said promissory notes solely for the purpose of refunding outstanding promissory notes in the same amounts, payable to the same payees.

3. Oceanside Electric and Gas Company shall report to the Railroad Commission, within twenty days after the issue of any of the promissory notes herein authorized to be issued, the fact of the issue and the terms and conditions thereof.

4. This order shall apply only to such promissory notes as may have been issued on or before April 1, 1915.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of February, 1915.

DECISION No. 2171.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SAN DIEGO BEACH RAILWAY COMPANY FOR ORDER AUTHORIZING ISSUE OF PROMISSORY NOTE FOR TWO THOUSAND FIVE HUNDRED DOLLARS.

Application No. 1499.

Decided February 24, 1915.

T. M. Leovy, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

Los Angeles and San Diego Beach Railway Company having applied to the Railroad Commission for an order authorizing the issue of a promissory note for \$2,500.00, payable to American National Bank of San Diego, or order, as hereinafter indicated, and a public hearing having been held upon said application in the city of San Diego on February 20, 1915, and the Railroad Commission finding that the purposes for which the proceeds of the note which it is now desired to renew were used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Los Angeles and San Diego Beach Railway Company be, and the same is hereby, authorized to issue its promissory note of the face value of \$2,500.00, payable to American National Bank or San Diego, or order, on the following conditions, and not otherwise, to wit:

1. Los Angeles and San Diego Beach Railway Company may issue said note at not less than its face value and at a rate of interest not in excess of 7 per cent per annum.

2. Los Angeles and San Diego Beach Railway Company may issue said note solely for the purpose of refunding an outstanding note in the same amount payable to American National Bank of San Diego, or order.

3. Los Angeles and San Diego Beach Railway Company may issue said note for a term of four months and may thereafter renew said note from time to time, provided that the combined term or terms of said note shall not be in excess of twelve months from the date of this order.

4. Los Angeles and San Diego Beach Railway Company shall report to the Railroad Commission within ten days from the issue of any note herein the fact of the issue, together with the terms and conditions thereof.

5. The authority hereby granted shall apply only to such note or notes as may have been issued on or before February 1, 1916.

6. The order hereby granted shall not become effective until Los Angeles and San Diego Beach Railway Company has paid the fee provided by section 57, as amended, of the Public Utilities Act.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of February, 1915.

DECISION No. 2172.

IN THE MATTER OF THE APPLICATION OF PACIFIC BUILDING COMPANY FOR AN ORDER AUTHORIZING THE SALE OF ITS WATER SYSTEM TO FAIRMOUNT WATER COMPANY AND OF THE LATTER COMPANY FOR AUTHORITY TO ISSUE STOCK AND BONDS IN PAYMENT THEREFOR.

Application No. 1060.

Decided February 24, 1915.

The order of the Commission authorizing the sale of the water system of the Pacific Building Company to the Fairmount Water Company provided that certain additions should be constructed by the Pacific Company and also provided that in addition to the initial price paid for such system, that the Fairmount Company would be permitted to issue additional shares of its capital stock covering the actual cost of improvements and it appearing that such cost includes the sum of \$6,945.66, Fairmount Water Company authorized to issue \$6,945.66 par value of its stock to the Pacific Building Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

SUPPLEMENTAL OPINION.

This is an application by Fairmount Water Company for a supplemental order authorizing the company to issue to Pacific Building Company certain additional shares of capital stock of the total par value of \$6,945.66.

In its Decision No. 1442, rendered on April 15, 1914, in the above entitled proceeding, this Commission authorized Fairmount Water Company to issue to Pacific Building Company in payment for the water company's system, 4,590 shares of its capital stock of the total par value of \$45,900.00 "and such further shares as may be equivalent in par value to the actual cost of the additions and improvements to be constructed and installed by Pacific Building Company as hereinbefore specified," on the conditions specified in the order. One of the conditions specified in the order was that upon the completion of said work to be performed by the Pacific Building Company, Fairmount Water Company should report to this Commission the actual cost of the work, whereupon a supplemental order would issue authorizing Fairmount

Water Company to issue to Pacific Building Company such additional shares of its capital stock as should be proper on the basis of the actual value of the work performed.

Fairmount Water Company has now filed with this Commission its supplemental application, alleging that Pacific Building Company has now fully carried out its agreement between the city of East San Diego and the Pacific Building Company, and that the actual expenditure incurred in making the improvements, as agreed, is the sum of \$6,945.66. Fairmount Water Company accordingly asks that this Commission make its supplemental order authorizing the issue to Pacific Building Company of capital stock of Fairmount Water Company of the total par value of \$6,945.66.

On request of the Commission, Fairmount Water Company has now filed a detailed statement showing the actual expenditures of Pacific Building Company in connection with this work, as follows:

**ITEMIZED STATEMENT OF COST OF KLAUBER STREET 6-INCH AND 8-INCH
PIPE LINE AND CONNECTIONS, AS SHOWN BY BOOKS OF
PACIFIC BUILDING COMPANY.**

| | |
|---|-------------------|
| 2,534 feet 8-inch No. 14 R. S. pipe dipped, wrapped and laid | \$1,241 76 |
| 4,481 feet 6-inch No. 16 R. S. pipe dipped, wrapped and laid | 1,590 86 |
| 67 feet 4-inch standard screw pipe | 20 01 |
| 1,165 feet 4-inch pipe | 104 85 |
| 1,267 feet 2-inch standard screw pipe | 120 78 |
| 1 18-inch manhole frame and cover | 5 00 |
| 1.5 M. board measure lumber in trestle work | 30 76 |
| 45 bushings | 8 22 |
| 70 ells | 14 88 |
| 60 unions | 9 96 |
| 25 saddles | 8 75 |
| 33 clamps | 20 89 |
| 19 crosses | 79 85 |
| 19 bands | 7 10 |
| 11 reducers | 5 75 |
| 45 gates | 223 43 |
| 40 plugs | 6 64 |
| 15 nipples | 6 98 |
| Labor—excavating, backfilling all pipe trenches, laying 4-inch and 2-inch pipe connections, etc. | 2,866 56 |
| Hauling | 67 57 |
| Team work | 45 00 |
| Engineering | 354 05 |
| Miscellaneous | 58 84 |
| Total | \$6,974 69 |
| Credit—Clamps | \$8 40 |
| Credit—Labor | 12 00 |
| Credit—Miscellaneous | 8 63 |
| Total cost | \$6,945 66 |

Portions of this work were done under unusual difficulties and it was necessary to incur unusual expenses in connection with cross connections at the various streets intersected.

In view of all the facts, I am of the opinion that the supplemental order should issue, as requested, subject to the conditions of the original order in so far as applicable.

I submit the following form of order:

SUPPLEMENTAL ORDER.

Fairmount Water Company having filed its application asking that this Commission make its supplemental order authorizing the issue of its capital stock of the par value of \$6,945.66, to Pacific Building Company, for the purposes hereinafter specified, and the Railroad Commission finding that the purposes for which said stock is to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Fairmount Water Company be and the same is hereby authorized to issue to Pacific Building Company its capital stock, not to exceed the total par value of \$6,945.66, on the following conditions, and not otherwise, to wit:

1. Fairmount Water Company shall issue said capital stock to Pacific Building Company in full payment for the property and labor specified in the opinion which precedes this order.

2. Fairmount Water Company shall report to the Railroad Commission within twenty (20) days from the issue of said stock the fact of such issue and the terms and conditions thereof.

3. Fairmount Water Company shall secure from Pacific Building Company such deed of conveyance as may be necessary to transfer to it an unincumbered title to said property and shall file with the Railroad Commission a certified copy of such document.

4. The authority hereby given shall apply only to such capital stock as shall be issued prior to May 1, 1915.

5. In so far as applicable, all the conditions specified in this Commission's order of April 15, 1914, in the above entitled proceeding, shall apply to this order.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of February, 1915.

DECISION No. 2173.

CHARLES R. WARREN AND HERBERT PASH

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 727.

Decided February 24, 1915.

REPORT OF THE COMMISSION.

ORDER DENYING PETITION FOR REHEARING.

Pacific Gas and Electric Company having filed a petition for rehearing in the above entitled proceeding, and no just cause appearing why a rehearing should be held,

It is hereby ordered that said petition be and the same is hereby denied.

Dated at San Francisco, California, this 24th day of February, 1915.

DECISION No. 2174.

W. N. NICKERSON

vs.

PEOPLES WATER COMPANY.

Case No. 696.

Decided February 27, 1915.

Complainant, having paid, under protest, a connection charge of \$10.00 to defendant company, petitions the Commission to direct a refund of this amount, and it appearing that at the time such charge was collected it was the lawful established rate of the city authorities of Oakland, who at that time had control over rates of defendant, and that defendant subsequently discontinued collecting a connection charge, complainant is not entitled to a return of a lawfully collected rate merely on the grounds that the utility has reduced or discontinued same.

R. Stuart Browne, for Complainant.

A. E. Tasheira, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This case came on regularly for hearing February 25, 1915, upon complaint and answer, no testimony being offered at the hearing but it being stipulated that the case would be submitted upon the pleadings supplemented by statements of counsel made at the hearing.

Counsel for complainant stated that the complainant had requested the defendant, the Peoples Water Company, to connect his residence with the defendant's system, and that defendant had declined to make such connection unless complainant paid the sum of \$10.00 to defendant to make the connection; that complainant had paid this amount under protest and that he, counsel for complainant, had since learned that the defendant, the Peoples Water Company, had made connections for consumers in Alameda without charging for such connections.

Counsel for defendant admitted that the complainant in this case had paid the charge for the connection under protest, but denied that the defendant, the Peoples Water Company, had made connections for others without making the usual charge for such connections; that after a conference with the Commission the defendant, the Peoples Water Company, had on January 1, 1915, voluntarily discontinued making the charge for connections, which resulted in considerable decrease to the company in revenue. Counsel for the defendant also stated, as was shown in the answer of said defendant company, that the charge of \$10.00 for connecting complainant with defendant's system was authorized by Ordinance No. 484, N. S. of the city of Oakland, county of Alameda, State of California, adopted on June 26, 1913.

On February 17, 1914, the city of Oakland, by a vote regularly had under the statutes in such case made and provided, voted its power to supervise and regulate public utilities into the Railroad Commission.

The service connection comprehended in the case at bar was made on September 14, 1914, at which time the ordinance of the city of Oakland above mentioned, authorizing the defendant, the Peoples Water Company, to make a charge for connection, was in full force and effect.

The policy of the Commission upon the question of claims for reparation was set forth in the decision in Case No. 277, *Pioneer Bar Company vs. Southern Pacific Company*, reported in California Commission's Report, Volume 1, page 570. We quote from that decision:

"The practice of filing claims for reparation after a carrier has voluntarily reduced its rates is deprecated by this Commission. In the multitude of rates which railroads find it necessary to make in the handling of traffic it is unreasonable to suppose that they will not at times recognize the justice of reducing rates, something which they should be encouraged in rather than discouraged by the filing of suits for reparation after a rate has voluntarily been reduced."

The same reason there applied to a reduction in rates by railroads applies with equal force to reductions in rates or the discontinuance of charges which amounts to a reduction in the cost of service by other

public utilities. The practice of charging for connecting consumers with the systems of public utilities was quite general in this State previous to the position taken by the Commission, as outlined above, and counsel for the complainant in this case, in his statement to the Commission at the hearing, admitted that it was proper and right for utilities to receive rates upon the amount necessarily invested in such connections, but that he believed it should appear as an addition to the system in the way of additions and betterments, or charged to the expense of operation.

Under all the circumstances of this case, in view of the fact that the defendant, the Peoples Water Company, was authorized by the city of Oakland by Ordinance No. 484, N. S., above referred to, to make this charge, which ordinance was still in full force and effect at the time the charge was made, and in view of the voluntary act of the defendant company in discontinuing the charge at the suggestion of the Railroad Commission, I believe and find as a fact that this is not a case where reparation should be granted, and that the complaint should be dismissed.

I submit the following form of order:

ORDER.

W. N. Nickerson, of Oakland, Alameda County, California, having brought suit against the Peoples Water Company, also of Oakland, Alameda County, California, praying for reparation in the sum of \$10.00, an amount which had been charged by defendant company for connecting complainant's residence with defendant's water system, and it appearing to the Commission, for the reasons set forth in the opinion preceding this order, that such reparation should not be granted, and that the case should be dismissed,

It is hereby ordered that the complaint in this case be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of February, 1915.

DECISION No. 2175.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF THE APPLICANT'S FIRST MORTGAGE BONDS TO THE AMOUNT OF FIVE HUNDRED THOUSAND DOLLARS.

Application No. 1391.

Decided February 27, 1915.

Applicant, operating an electric generating and distributing system, applies for permission to issue its bonds of the face value of \$300,000.00 to be sold at not less than 90, proceeds partially to discharge outstanding notes and unpaid vouchers, the balance to be paid on open construction accounts, which was later amended to include a sufficient amount to retire \$70,000.00 face value of bonds of the Lytle Creek Power Company, and it appearing that there are several companies closely connected with applicant that have profited considerably at applicant's expense and there being in effect at the present time a number of contracts between these companies which should be amended so as to eliminate all such profits before authorizing the bonds herein requested:

Held, Preliminary order granting application made, provided that such order shall not become effective until applicant has complied with certain requirements, principal of which is an arrangement with affiliated companies providing that such companies shall write off all profits which have accrued on construction work, etc., excepting such amounts properly due on energy purchased and also providing that applicant shall file detailed statements showing sources of revenues and amounts paid to it for energy purchased.

Charles F. Potter, for Applicant.

Albert Lee Stephens, W. B. Mathews, Howard Robertson, Wm. B. Himrod, for the City of Los Angeles, Protestant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

The Southern Sierras Power Company is an electrical corporation owning power plants on Bishop Creek, Inyo County, a steam electric generating plant in San Bernardino, and operating in the counties of Inyo, Kern, Riverside and San Bernardino. It distributes and sells electricity for light and power. The applicant was incorporated in 1911. It has an authorized capital stock of 50,000 shares of the par value of \$100.00 per share, or a total par value of \$5,000,000.00. All of the stock is issued and outstanding.

The applicant has an authorized bond issue of \$5,000,000.00, provided for in its mortgage dated September 1, 1911, issued by the applicant to the International Trust Company of Denver, Colorado, as trustee. This mortgage is supplemented by an additional or supplemental mortgage dated March 1, 1912, between the same parties. Under the terms of this mortgage and the supplement thereof, the applicant has issued \$2,500,000.00 of bonds. The bonds run for a period of twenty-five

years, from 1911, and bear interest at the rate of 6 per cent per annum.

The applicant describes its properties as follows:

"The properties of the Southern Sierras Power Company include valuable water rights upon running streams in the county of Inyo, hydroelectric power plant sites, with power plants erected thereon, known as Plants 5 and 6, on Bishop Creek, in Inyo County; steam plant site and steam plant in the city of San Bernardino, county of San Bernardino, and lands adjacent thereto; the so-called Lytle Creek power plant formerly owned by the Lytle Creek Power Company; various substantial substations at Lone Pine, Big Pine, Inyokern, Randsburg, Victorville, San Jacinto, Hemet, Perris, Elsinore, Corona and Banning; transformer lots at various points, rights of way; miscellaneous parcels of real estate, reservoirs, pipe lines, main electrical transmission lines and distributing lines; control station plant at Barstow; various county and municipal franchises, and miscellaneous properties, supplies and equipment.

"The main electrical transmission line of this company extends from Bishop, California, to the city of San Bernardino, carried on steel towers for the entire distance of two hundred thirty-eight (238) miles. This is exclusive of the steel pole line at Bishop connecting Plant No. 6 with the steel tower transmission line and distributing lines in the counties of Inyo, Kern, San Bernardino and Riverside, including eleven miles of steel pole line, and three hundred sixty-six (366) miles of wood pole lines.

"Hydroelectric generating plant known as 'Plant No. 5,' is located upon Bishop Creek in Inyo County, and has a capacity of 2,000 horsepower, all in use.

"Hydroelectric generating plant known as 'Plant No. 6' is located near Bishop, in Inyo County, and has a generating capacity of 2,666 horsepower, all in use.

"Steam electric generating plant at San Bernardino has a generating capacity of 11,000 horsepower, all in use."

The applicant also states that it has certain undeveloped water rights on streams in Inyo County, California.

The applicant is operating under franchises in the following cities: Corona, Elsinore, Hemet, Perris, Riverside, and San Jacinto, Riverside County; and San Bernardino, San Bernardino County.

The region traversed by applicant's transmission line is for the main part semi-arid and sparsely settled. The company has built lines to Keeler, Victorville, Oro Grande, Johannesburg and Inyokern. A projected line is to extend to Barstow and another to Searles Lake.

Applicant has developed a large lighting business in the city of San Bernardino and sells some current to the cities of Redlands and Riverside. In the vicinity of San Bernardino, Redlands and Riverside the applicant is in competition with the Pacific Light and Power Company and the Southern California Edison Company.

The applicant since its organization has acquired or secured control of the following companies:

Corona Gas and Electric Company.
 Lytle Creek Power Company.
 San Jacinto Light and Power Company.
 Elsinore Electric Light and Power Company, and
 Barstow Utilities Company.

At Banning the Southern Sierras Power Company, supplies current to the Coachella Valley Ice and Electric Company, which, in turn, sells it to the Holton Power Company which operates throughout the Imperial Valley.

With the exception of the sections in and about Riverside, Redlands and San Bernardino, the applicant serves a comparatively undeveloped territory.

The officials of the Southern Sierras Power Company expressed the belief, however, that by pioneering through the territory described, they would eventually build up a large and profitable business.

This utility is in close relationship with the Nevada-California Power Company, the actual control being practically identical. The Nevada-California Power Company supplies power to mines in northeastern Inyo County and in southern and southwestern Nevada, including the Tonopah, Goldfield, Silver Peak, Rhyolite, Manhattan and Round Mountain sections.

In the application herein the Southern Sierras Power Company requests authority to sell \$300,000.00 of its first mortgage bonds at 90 per cent of the face value and to apply the proceeds as follows:

| | |
|---|---------------------|
| (a) For the retirement of outstanding notes of the Southern Sierras Power Company, including interest thereon, the proceeds of said notes having been used for additions and betterments to the properties of the company----- | \$35,364 85 |
| (b) For the discharge of unpaid vouchers of the company, representing debts incurred for the purchase and installation of materials and equipment, used in the extension or improvement of the facilities of the company, and improvement of its service----- | 14,638 75 |
| (c) For partial payment of amount due to the Sierras Construction Company on open account, for labor furnished and materials used in the construction and equipment of extensions and betterments to petitioner's lines and industrial structures----- | 219,996 40 |
| Total ----- | \$270,000 00 |

The hearing upon this application was held in the city of Los Angeles on January 20th and was consolidated with the hearing upon Application No. 1436. In Application No. 1436 the Southern Sierras Power Company requests authority to issue \$4,146,000.00 of bonds for the purpose of refunding its underlying bonds, including the bonds proposed

to be issued under Application No. 1391; and for the further purpose of retiring bonds of the Lytle Creek Power Company and for discharging and paying off obligations of the Southern Sierras Power Company to the Nevada-California Power Company in the sum of \$995,584.01.

At the hearing Mr. Charles F. Potter, attorney for the applicant, requested that the Commission consider in connection with Application No. 1391, not only the purposes for which it is proposed therein to issue bonds, but also the purposes stated in Application No. 1436. The application, therefore, as amended, becomes a request for authority to issue \$300,000.00 of applicant's bonds under its mortgage to the International Trust Company of Denver, dated September 1, 1911, and supplemental mortgage and deed of trust thereto dated March 1, 1912; and to sell said bonds at 90 per cent of face value and to apply the proceeds upon any of the following purposes:

| | |
|--|--------------|
| To the purposes heretofore stated, as specifically enumerated in Application No. 1391----- | \$270,000 00 |
| To retire bonds of Lytle Creek Power Company----- | 70,000 00 |
| To discharge indebtedness to Nevada-California Power Company----- | 995,584 01 |

The city of Los Angeles intervened and protested against the application. It was represented at the hearing by its city attorney, Mr. Albert Lee Stephens, Mr. Howard Robertson, assistant city attorney, and Mr. W. B. Mathews, attorney for the city of Los Angeles, in connection with the aqueduct water supply construction; and Mr. Wm. B. Himrod.

The representatives of the city filed a brief in this matter covering the points of opposition. They asked that the application be denied on the ground that to grant the application would be contrary to the interests of the city of Los Angeles and contrary to the interests of the public. The city of Los Angeles has developed water rights in Inyo County for purposes of a municipal water supply. It is engaged in further development work upon water rights in Inyo County and its representatives assert that the present plans of the Southern Sierras Power Company would interfere with those of the city of Los Angeles. The application was also opposed by the city of Los Angeles on the ground that the authorization requested would be contrary to public interest in that it would allow the applicant to issue an unduly excessive amount of bonds and thereby either injure prospective investors who might purchase the applicant's securities, or injure the public which might be required to pay rates unduly high to pay interest and dividends on these securities.

It was specifically stated by the representatives of the city of Los Angeles at the hearing that the water rights concerned in the present application were not contested by the city. The claim of injury to the city went rather to the general plans of further and future development by this applicant or affiliated or related corporations.

The applicant submitted the following statement of assets and liabilities as of September 30, 1914:

| Assets. | | |
|---|----------------|----------------------|
| <i>Property—</i> | | |
| Property and equipment January 1, 1913----- | \$8,631,788 93 | |
| Additions since December 31, 1912----- | 956,428 60 | |
| Stock of Corona Gas and Electric Light Company ----- | 100,000 00 | |
| | | <hr/> \$9,688,217 53 |
| <i>Special Funds—</i> | | |
| International Trust Company, trustee coupon fund ----- | \$1,170 00 | |
| Title Insurance and Trust Company, trustee Lytle Creek Power Company coupons----- | 2,000 00 | |
| | | <hr/> 3,170 00 |
| Cash on hand in banks----- | | 25,627 12 |
| <i>Accounts Receivable—</i> | | |
| Light, power and merchandise----- | \$92,774 69 | |
| Miscellaneous notes and accounts receivable--- | 62,562 65 | |
| | | <hr/> 155,337 34 |
| <i>Materials and Supplies, etc.—</i> | | |
| Materials and supplies----- | \$61,851 24 | |
| Commissary ----- | 557 10 | |
| Prepaid insurance ----- | 1,095 06 | |
| Miscellaneous job orders and amounts awaiting distribution ----- | 540 83 | |
| | | <hr/> 62,930 03 |
| Total ----- | | <hr/> \$9,935,282 02 |
| Liabilities. | | |
| Capital stock ----- | | \$5,000,000 00 |
| <i>Funded Debt—</i> | | |
| First mortgage 6 per cent bonds----- | \$2,500,000 00 | |
| Lytle Creek Power Company 5 per cent bonds ----- | 70,000 00 | |
| | | <hr/> 2,570,000 00 |
| <i>Liabilities Offset by Special Deposits—</i> | | |
| Outstanding coupons 6 per cent bonds----- | \$1,170 00 | |
| Outstanding coupons Lytle Creek Power Company bonds ----- | 2,000 00 | |
| | | <hr/> 3,170 00 |

Current Liabilities—

| | | |
|---|-------------|--------------|
| Accruing interest on 6 per cent bonds (January 1, 1915) ----- | \$37,500 00 | |
| Accruing interest on Lytle Creek bonds (March 1, 1915) ----- | 291 67 | |
| Notes payable ----- | 136,213 19 | |
| Interest accruing on notes payable ----- | 2,219 41 | |
| Taxes accrued ----- | 2,960 85 | |
| Accounts payable ----- | 893 55 | |
| Vouchers payable ----- | 36,882 15 | |
| Income tax withheld ----- | 53 25 | |
| Pay checks issued ----- | 12,589 87 | |
| Meter deposits ----- | 807 00 | |
| Special deposits account pole line construction ----- | 4,147 85 | |
| | | \$234,558 79 |

To Associated Companies on Open Ledger Accounts—

| | | |
|---|--------------|----------------|
| The Nevada-California Power Company, special account ----- | \$500,000 00 | |
| The Nevada-California Power Company, accruing interest on special account ----- | 32,500 00 | |
| The Nevada-California Power Company, current account ----- | 1,004,611 83 | |
| The Sierras Construction Company ----- | 580,406 01 | |
| Bishop Light and Power Company ----- | 1,646 38 | |
| | | \$2,119,164 22 |

Less due from Associated Companies—

| | | |
|--|------------|----------|
| Corona Gas and Electric Light Company ----- | \$2,245 80 | |
| Interstate Telegraph Company ----- | 517 84 | |
| Silver Lake Power and Irrigation Company ----- | 756 78 | |
| Hillside Water Company ----- | 424 83 | |
| | | 3,945 25 |

2,115,218 97

Surplus—

| | | |
|---|-------------|--|
| Surplus January 1, 1914 ----- | \$41,968 26 | |
| Surplus this year to date ----- | 36,398 56 | |
| Profit and loss adjustments (credit) ----- | 11,685 82 | |
| Uncollectible accounts prior to January 1, 1914 ----- | 601 53 | |

5,514 59

Reserves—

| | | |
|--|------------|--|
| Reserve for injuries and damages ----- | \$4,183 49 | |
| Reserve for supply expense ----- | 2,636 18 | |

6,819 67

Total ----- \$9,935,282 02

The applicant submitted a statement of earnings for the calendar year 1913 and for the calendar year 1914 (December, 1914, estimated) as follows:

| Year | Earnings including non-operating | Operating expenses | Net earnings | Bond and other interest | Profit and loss adjustment | Final net surplus |
|------------|----------------------------------|--------------------|--------------|-------------------------|----------------------------|-------------------|
| 1913 ----- | \$289,220 12 | \$208,575 90 | \$80,644 22 | \$151,383 32 | \$3,159 46 | *\$67,579 64 |
| 1914 ----- | 465,500 28 | 203,936 51 | 261,563 77 | 189,392 98 | 11,113 73 | 83,284 52 |

*Deficit

At the hearing it developed that a close inter-relationship amounting to a practical identity of control existed between the Southern Sierras Power Company, Nevada-California Power Company and the Sierras Construction Company.

I find that the properties of this applicant were built by the Sierras Construction Company under contracts, by the terms of which the construction company charged the power company with the full cost of the work and added thereafter 15 per cent as a profit to the construction company.

It appears from the statement submitted by the applicant that this gross profit made by the construction company on work or services for or in behalf of the Southern Sierras Power Company, amounted to \$674,746.70. The applicant in its statement charges against this profit, discount on bonds and notes and other items, and asserts that the net profit amounted to \$363,771.67. The analysis made by the auditing department of this Commission indicated a profit for the construction company or other affiliated or related corporations at the expense of this applicant, up to November 30, 1914, of \$690,105.13.

It appears also that the applicant and Nevada-California Power Company have an arrangement for the intersale and interchange of power which is covered by a series of contracts. Under the terms of these contracts, power is furnished by the Nevada-California Power Company to the Southern Sierras Power Company at a price which is determined by a division of the net proceeds remaining after the payment of necessary operating expenses, interest on the bonds of the Southern Sierras Power Company, and a certain percentage for depreciation. It is also provided in another contract that a certain percentage of the cost of operating the steam plant at San Bernardino shall be borne by the Nevada-California Power Company.

This relationship is made the more binding by reason of the guarantee by the Nevada-California Power Company of the bonds of the Southern Sierras Power Company.

It is provided in the mortgage and deed of trust under which the applicant proposes to issue its bonds, under Application No. 1391, being the mortgage and deed of trust of the Southern Sierras Power Company to the International Trust Company of Denver, dated December 1, 1911, and the supplement thereto of March 1, 1912, that after the applicant shall have issued thereunder \$2,500,000.00 of bonds, further issues shall be made only for 80 per cent of the cost of such additions and betterments and only when the net earnings of the company for a given period shall have been one and one half times bond

interest on the bonds outstanding plus the interest on the bonds which it is proposed to issue.

It appeared also from an examination of the records in this case that the Southern Sierras Power Company had guaranteed indebtedness of the Sierras Construction Company.

It appears further that if all profits to affiliated or related corporations be eliminated, the cost of the properties to this applicant will stand at \$3,618,231.72. This figure may be subject to correction by further evidence in connection with Application No. 1436, but it states approximately the facts as analyzed and developed to date by the auditing department of the Commission.

A summary, therefore, would show that there had been invested in applicant's properties some \$3,618,000.00 and that against this investment bonds had been issued to the face value of \$2,500,000.00. The other indebtedness of the applicant consists of the notes and accounts payable listed above and moneys due affiliated or associated corporations, which, on November 30, 1914, amounted to \$2,094,916.70.

In view of the situation herein found to exist, I recommend that a final order be granted to this applicant to issue bonds only after it shall have adjusted its accounts with its affiliated and associated corporations, to the end that any profit heretofore made or proposed to be made by any such affiliated or associated corporations at the expense of this applicant be eliminated. It is not necessary here to comment upon the practice of permitting a construction company to profit at the expense of a public utility when that construction company is owned or controlled by the same interests which own and control the utility. The practice can not be defended and the recommendation herein made will suggest that bonds be authorized only after the proper adjustments have been made to give to this applicant the benefit of all that rightfully belongs to it.

I believe also that before a final order should be issued authorizing that the bonds be sold, this applicant should make a segregation of its earnings and expenses setting forth the exact sums which it has been obliged to pay for current purchased from the Northern California Power Company, and setting forth also the exact sum or sums which it has received from Nevada-California Power Company for power sold, and setting forth further the exact sums paid by Nevada-California Power Company as compensation to the Southern Sierras Power Company for the operation of its steam plant in San Bernardino.

Accordingly, I recommend that a preliminary order be granted in this matter authorizing the applicant to issue the \$300,000.00 as applied for, but making such order subject to a final order to be issued by this Commission when the Southern Sierras Power Company shall have

complied with all the conditions which may be set out in the order herein. Accordingly, I submit the following form of order:

ORDER.

The Southern Sierras Power Company having applied to this Commission for authority to issue \$300,000.00 of its first mortgage 6 per cent, twenty-five year bonds under its mortgage and deed of trust to the International Trust Company of Denver, trustee, dated September 1, 1911, and a supplemental mortgage and deed of trust thereto dated March 1, 1912, a copy of which has been filed in connection with the application herein and marked Exhibit "D," to which reference is hereby made, and a hearing having been held and it appearing that the purposes for which said bonds are to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that the Southern Sierras Power Company is hereby authorized to issue \$300,000.00 of its 6 per cent, twenty-five year bonds under its mortgage and deed of trust to the International Trust Company of Denver, trustee, as heretofore described.

The authority herein granted is given upon the following conditions and not otherwise:

1. The bonds herein authorized to be issued shall be issued only after the applicant shall by proper exchange of memoranda and by proper entry upon its books arrange with the Sierras Construction Company and Nevada-California Power Company, and such other affiliated and associated corporations as may be necessary, so as to discharge the Southern Sierras Power Company from any liability to pay to said corporations, or to any of them, any amounts which may have accrued to them as profits upon work done, or upon services rendered for or in behalf of the applicant herein; with the exception that the applicant shall not be released from any sum or sums which may be properly due or be found to be properly due to Nevada-California Power Company for the purchase of electricity.

2. The applicant shall file a detailed statement with this Commission showing the sources of its revenue, stating the cost to the applicant of power purchased from Nevada-California Power Company, and stating the amount received by it from power sold to Nevada-California Power Company; and stating further the amounts received from Nevada-California Power Company as compensation in connection with the operation of the steam plant at San Bernardino.

3. The applicant shall issue the bonds herein authorized to be issued only after it shall have complied with the requirements of its mortgage or deed of trust above described, and particularly to that section which provides that its bonds shall have been issued only after its earnings

shall have been for a specified period one and one half times the interest on its bonds and the bonds proposed to be issued.

4. The applicant shall issue the bonds herein authorized to be issued only after this Commission shall have issued a supplemental order finding that the conditions herein enumerated have been fulfilled to the satisfaction of this Commission and setting forth the specific purposes for which the bonds may be used, the minimum price for the sale of such bonds and such other conditions as this Commission may set out.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of February, 1915.

Decisions Nos. 2176, 2177, grade crossings; not printed. See end of volume.

DECISION No. 2178.

IN THE MATTER OF THE APPLICATION OF THE SOUTH LOS ANGELES WATER COMPANY (1) FOR AN ORDER AUTHORIZING THE SALE OF ALL OF ITS PROPERTY TO THE SOUTH LOS ANGELES LAND AND WATER COMPANY; (2) FOR AN ORDER AUTHORIZING THE SOUTH LOS ANGELES WATER COMPANY TO ACQUIRE 1700 SHARES OF THE CAPITAL STOCK AND ONE HUNDRED THOUSAND DOLLARS OF FIRST MORTGAGE BONDS OF THE SOUTH LOS ANGELES LAND AND WATER COMPANY; (3) FOR AN ORDER AUTHORIZING THE SOUTH LOS ANGELES LAND AND WATER COMPANY TO PURCHASE THE PROPERTY OF THE SOUTH LOS ANGELES WATER COMPANY.

Application No. 1430.

Decided February 27, 1915.

South Los Angeles Water Company applies for permission to transfer its water system to the South Los Angeles Land and Water Company and the latter company for permission to issue 1,700 shares of its stock of the par value of \$100.00 per share and \$100,000.00 face value of bonds in payment therefor, and it appearing that the value of the property to be transferred does not bear an equitable proportion to the value of the securities to be issued in payment therefor.

Held, South Los Angeles Water Company authorized to transfer its water system to the South Los Angeles Land and Water Company and the latter company authorized to execute a mortgage covering such property and to issue \$75,000.00 par value of stock and \$75,000.00 face value of bonds in payment therefor.

Bert Campbell, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application on the part of South Los Angeles Water Company to sell its water properties in Los Angeles County to South Los Angeles Land and Water Company, and an application on the part of

South Los Angeles Land and Water Company to issue to South Los Angeles Water Company its stock and bonds in payment for these water properties.

The application may, therefore, be summarized as follows:

1. Application of South Los Angeles Water Company for authority to sell its water properties in Los Angeles County to South Los Angeles Land and Water Company.

2. Application of South Los Angeles Land and Water Company to mortgage its properties.

3. Application of South Los Angeles Land and Water Company for authority to issue \$100,000.00 of its first mortgage 6 per cent twenty-year bonds, and 1,700 shares of its capital stock of the par value of \$100.00 per share.

South Los Angeles Water Company is engaged in the business of furnishing water for domestic and irrigation purposes in the immediate vicinity of the cities of Vernon and Huntington Park, Los Angeles County. It has an outstanding issue of 2,500 shares of capital stock of the par value of \$100.00 per share or a total par value of \$250,000.00. Its total indebtedness consists of approximately \$4,000.00, and there is no mortgage upon the property.

It is stated in the application, that demands have been made upon South Los Angeles Water Company for extensions to serve territory contiguous to that in which it now operates; that the present owners of South Los Angeles Water Company are desirous of retiring from business, and that South Los Angeles Land and Water Company has been formed for the purpose of purchasing these water properties and to undertake operations on an enlarged scale. Accordingly, it is desired to transfer the properties to South Los Angeles Land and Water Company and to accept in payment therefor the bonds and stocks which it is proposed that South Los Angeles Land and Water Company shall issue.

South Los Angeles Land and Water Company has been incorporated with an authorized issue of 3,000 shares of stock of the par value of \$100.00 per share, or a total par value of \$300,000.00.

South Los Angeles Water Company has presented a balance sheet to this Commission as of October 31, 1914, in which it carries its plant at \$263,503.98. Mr. P. E. Harroun for the applicant submitted a statement estimating the value of its properties at \$205,000.00. This estimate included certain properties which the company does not now desire to transfer to South Los Angeles Land and Water Company. Mr. Howard F. Clark, of the engineering department of the Railroad Commission, submitted an appraisal of these properties, which the

applicant, South Los Angeles Water Company desires to transfer, in the sum of \$146,177.00. If deductions are made of the properties which it is not now proposed to transfer, there will be but small difference in the estimates of Mr. Harroun and Mr. Clark.

For the calendar year 1912, South Los Angeles Water Company submitted an earning statement showing the following:

| | |
|--|-------------|
| Gross operating revenue----- | \$31,843 49 |
| Operating expenses ----- | 14,437 85 |
| Net operating revenues----- | 17,405 64 |
| Adjustment in payment for service----- | 2,400 00 |
| Surplus ----- | 15,005 64 |

For the calendar year 1913 the applicant submitted a statement of earnings as follows:

| | |
|----------------------------|-------------|
| Operating revenues----- | \$33,060 33 |
| Operating expenses----- | 16,732 04 |
| Net operating revenue----- | 16,328 31 |

During the year 1913 dividends were paid in the sum of \$8,732.48. The business of the applicant is rapidly expanding in this territory. Although applicant has not made a complete showing of the necessity of the sale of its properties, I am not disposed to deny that portion of its application, because I do not believe the public interest will be injured by such sale. South Los Angeles Land and Water Company has apparently been organized for the particular purpose of operating this water system, and will, as a public utility, succeed to all of the obligations which now attach to South Los Angeles Water Company.

The showing made does not warrant the issuance of all of the stocks and bonds petitioned for. Adopting for the purpose of this application, the valuations of Mr. Harroun and Mr. Clark, we have a plant value of approximately \$150,000.00. Considering that the wells which furnish the water for the system of applicant may not be permanent, I believe that this property should not be encumbered with bonds in an amount to exceed \$75,000.00, and that stock to the amount of \$75,000.00 par may be properly issued to represent the remaining, and perhaps less permanent value. Under the circumstances, the bonds may be permitted to draw 6 per cent interest.

The applicant has not filed a mortgage or deed of trust, and any order, therefore, must be merely preliminary until this Commission shall have had an opportunity to pass upon the mortgage or deed of trust by which the bonds shall be secured.

Accordingly I recommend the following form of order:

ORDER.

South Los Angeles Water Company having applied to this Commission for authority to sell its water properties in Los Angeles County,

as described in the application herein, to South Los Angeles Land and Water Company, and South Los Angeles Land and Water Company having applied to this Commission for authority to execute a mortgage of said properties to be acquired, and South Los Angeles Land and Water Company having applied further, for authority to issue to South Los Angeles Water Company in payment for said water properties \$100,000.00 of 6 per cent, twenty-year bonds and 1,700 shares of capital stock of the par value of \$100.00 per share, and a public hearing having been held and it appearing to this Commission that the application of South Los Angeles Water Company to sell the water properties herein referred to, to South Los Angeles Land and Water Company should be granted, and it appearing further to this Commission that South Los Angeles Land and Water Company should be granted authority to acquire said properties and to place a mortgage thereon, and it appearing further to this Commission that authority should be granted to South Los Angeles Land and Water Company to issue a portion of the securities herein applied for, and that authority should be denied as to a portion of the securities herein applied for.

It is hereby ordered that South Los Angeles Water Company is hereby authorized to sell all of its water properties, described in the application herein, to South Los Angeles Land and Water Company, in consideration of the issuance to South Los Angeles Water Company by said South Los Angeles Land and Water Company of \$75,000.00 face value of bonds, drawing interest at the rate of 6 per cent per annum, and \$75,000.00 par value of stock.

It is hereby further ordered that South Los Angeles Land and Water Company is hereby authorized to execute a mortgage of its properties in such form as shall hereafter be approved by this Commission in a supplemental order.

It is hereby further ordered that South Los Angeles Land and Water Company is hereby authorized to issue \$75,000.00 of 6 per cent twenty-year bonds, and 750 shares of capital stock of the par value of \$100.00 per share, upon the conditions hereinafter enumerated.

1. This order shall become effective only after this Commission shall have issued a supplemental order approving the deed and contract of transfer, said deed to include all of the assets of South Los Angeles Water Company, except such as may specifically be made exempt from such transfer.

2. Such properties shall be transferred to South Los Angeles Land and Water Company free from incumbrance.

3. South Los Angeles Land and Water Company shall, in a form satisfactory to this Commission, stipulate that it will undertake all

obligations of service now properly binding upon South Los Angeles Water Company.

4. The authority herein granted to South Los Angeles Land and Water Company to mortgage its property shall become effective only after this Commission shall have approved the mortgage or deed of trust to be executed.

5. The authority herein granted to South Los Angeles Land and Water Company to issue not to exceed \$75,000.00 of bonds and not to exceed \$75,000.00 of stock is granted upon the following conditions, and not otherwise:

(a) The bonds and stock herein authorized to be issued shall be transferred to South Los Angeles Water Company in full payment for the water properties to be acquired as hereinbefore set forth.

(b) The stock and bonds herein authorized to be issued shall not be binding upon this Commission or other body as a measure of the value of the water properties which South Los Angeles Land and Water Company is herein authorized to acquire.

6. Said company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the bonds and stock herein and stock herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of bonds and stock during the preceding month, the terms and conditions of such sale, the moneys derived therefrom and the use and application of such moneys, all as provided in this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. This order, in so far as it authorizes the issue of bonds, shall not become effective until the fee prescribed in section 57 of the Public Utilities Act, as amended, shall have been paid.

8. The authority hereby given to issue bonds and stock shall apply only to bonds and stock issued prior to December 31, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of February, 1915.

DECISION 2179.

GOLD BANNER ASSOCIATION

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 691.

Decided February 27, 1915.

Complainant files a petition for an order directing defendant to refund \$324.00 collected as demurrage on cars of shook which it contends it was unable to unload owing to inadequate facilities furnished by defendant and it appearing that complainant had sufficient time and room for unloading the cars upon which demurrage was collected, complaint dismissed.

C. M. Brown, for Complainant.

M. W. Reed, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, Commissioner.

This is a complaint by the Gold Banner Association of Redlands, California, alleging that collection of demurrage charges amounting to \$324.00 on certain cars of box shook is unreasonable and should be refunded to the complainant.

It appears that in 1911 the Gold Banner Association leased from the defendant, The Atchison, Topeka and Santa Fe Railway Company, a certain packing house in the city of Redlands owned by that company and formerly occupied by the Stewart Fruit Company.

It is undisputed that at the time of the consummation of the lease whereby the Gold Banner Association became tenants of this property the defendant was informed that the premises were not large enough to properly transact the business of the complainant and that in order to properly handle its business the complainant would require some additional switching service.

It appears that the amount of switching service had nothing whatever to do with the ability of the complainant to unload his box shook.

The testimony concerning the actual amount of switching service given the complainant is conflicting, the complainant's contention being that the greater part of the time it was insufficient, while the defendant maintains that on twenty-four different occasions during the shipping season in order to accommodate the plaintiff passenger trains laying over at Redlands performed extra switching service.

The only question to be considered in this case is: Should the demurrage heretofore collected by the railroad on cars loaded with plaintiff's shooks, be returned to plaintiff because of defendant's failure to make it reasonably possible to unload the shooks.

It appears that the platform at plaintiff's packing house would not accommodate all of the cars to be loaded with oranges and the cars loaded with shooks. Plaintiff therefore, on occasion, unloaded shooks on the ground and placed coverings over them.

Mr. C. M. Brown, representing complainant, says on page 11 of the transcript:

"Absolutely, if they had drawn this track twice a day we could have handled the business . . . His idea about me not having box room is absurd. I didn't have box room but I piled it on the ground. We had plenty of room on the ground and we put tarpaulins over it. I could have unloaded twice the number."

If Mr. Brown did not have room enough to store the boxes in the shook room of his packing house, then no amount of switching would have been of assistance to him, because if the box shook had reached the platform he would have had no place to put them.

Mr. Brown again stated on page 36 of the transcript that while these carloads of shook were standing on his track near the packing house he hauled shook from a factory. The record does not disclose how far the shook factory is located from the packing house occupied at the time by Mr. Brown but certainly must have been further away than were the shook on the side track, and I can not understand, as before stated, why these cars were not unloaded so as to save demurrage instead of hauling from a factory.

It being clear, therefore, that plaintiff had full opportunity to avoid demurrage by unloading the shooks on the ground on his premises, I find that he is not entitled to relief from demurrage which accrued because of his failure to unload these cars.

I recommend that the complaint herein be dismissed, and submit herewith a form of order:

ORDER.

The Gold Banner Association having filed a complaint against The Atchison, Topeka and Santa Fe Railway Company and claiming refund of demurrage charges amounting to \$324.00 and a regular hearing having been held and basing its order on the opinion which precedes this order,

It is hereby ordered that the complaint herein be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of February, 1915.

DECISION No. 2180

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF THE MILL VALLEY AND MT. TAMALPAIS SCENIC RAILWAY.

Case No. 176.

Decided February 27, 1915.

Proceedings on the Commission's own motion to ascertain the various elements entering into the value of respondent's property.

Findings of fact, (1) That the reproduction cost of the operative physical property of respondent as of June 30, 1913 is the sum of \$384,395.35, and of non-operative property the sum of \$121,169.51, total \$505,564.96; (2) That the present value of the operative physical property of respondent as of June 30, 1913 is the sum of \$345,470.50, and of the non-operative property the sum of \$105,086.58; total \$450,557.08. Though operative and non-operative property is segregated for the purposes of this valuation, as in all similar valuations, considering that this road was built for excursionists and sight-seeing purposes principally, the non-operative property will bear a far closer relationship than is usual in such cases should value be considered for rate fixing purposes.

Thomas, Beedy and Lanagan, for Respondent.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is one of the so-called railroad valuation cases brought on the Commission's own initiative for the purpose of ascertaining the facts entering into the valuation of the property of the various steam railroad corporations in the State of California. These valuations were undertaken on the Commission's own initiative under section 20 of the Stetson Act, effective February 10, 1911, and continued under the provisions of the Public Utilities Act, effective March 23, 1912. The sections of the Public Utilities Act particularly applicable to these proceedings are sections 47 and 70; and for the general procedure in these valuation cases and for a general description of the nature of the work performed by the Commission's engineering department in connection therewith, reference is hereby made to this Commission's opinion and findings in Case No. 206, being the matter of ascertaining the value of the property of the Stockton Terminal and Eastern Railroad Company.

I will repeat here what has been stated by the Commission in every one of these valuation cases, that I shall make findings of fact only bearing on the question of the value as shown by the evidence in this case and shall not make findings on the question of the ultimate value of the property, irrespective of the purpose for which the value is ascertained. The facts determined here will be left for future use, as they may be material in any proceeding in which the valuation of a property is relevant. I shall confine myself to the findings of fact relevant to certain elements which must be fundamental in any valuation proceeding and

which have from time to time been considered by the courts in cases where the valuation of the property of a railroad company has been at issue. These elements are the original cost, reproduction cost and reproduction cost less depreciation. Certain other factors, especially the proper classification of a part of this company's property as between operative and non-operative, will also have to be considered. There are, of course, other factors entering into the ultimate value of the railroad property, but I shall make no attempt to ascertain these now.

In making such findings of fact I shall consider in this case the following matters:

1. Organization, Construction and Operation.
2. Stocks and Bonds.
3. Revenues and Expenses.
4. Original Cost, as defined.
5. Reproduction Cost, as defined.
6. Reproduction Cost Less Depreciation, as defined.

I will first define the three elements of value which I propose to find:

The term "original cost" means the original book cost, and is defined as the actual expenditures chargeable to capital account in accordance with the Interstate Commerce Commission's classification for steam roads, in cash or its equivalent in terms of cash, by the public utility for its operative property in the State of California, as of the date of the valuation.

The term "reproduction cost" is defined as the estimated cost in cash of acquiring operative right of way and real estate and of reproducing, in the condition in which it was acquired, the other physical property of the public utility in the State of California, as of the date of the valuation; to which are added overhead expenditures for engineering, law, interest and other similar items.

The term "reproduction cost less depreciation," is defined as the reproduction cost less the diminution in the value of the physical elements of the property, due to use, age, obsolescence, inadequacy, or other causes, this diminution being called depreciation, and plus the increase in the value of the physical elements of the property, due to age or other causes, this increase being called appreciation.

I will review briefly the history of this case. On March 11, 1912, notice was served on the company to prepare and file an inventory and appraisal of all its physical property, and also to file certain maps and profiles with the Commission. An appraisal, on inventory forms furnished by the Commission, was filed on July 10, 1912, and it stated the original cost, reproduction value and present value of all the company's property as of June 30, 1912. A summary sheet of the company's original cost estimate is attached to this opinion and marked Exhibit "A." On February 11, 1914, the Commission's engineering department submitted its detailed valuation report in this proceeding, a copy

of which was furnished to the company. The final summary sheet of this report is attached hereto as Exhibit "B." Thereafter hearings were held on April 14, 1914, and December 28, 1914, at which the company presented its views to the Commission.

I have considered all of the reports and transcripts in this case and believe that the matter is now ready for decision.

1. Organization, Construction and Operation.

The Mill Valley and Mt. Tamalpais Scenic Railway was incorporated in California on January 14, 1896, to construct and operate a scenic railway from a point near Mill Valley to a point near the summit of Mt. Tamalpais, a distance of eight (8) miles, more or less. This project was carried out, and in addition to the proposed construction there was built subsequently, and was in operation on the date of this valuation, June 30, 1913, a branch line called the Redwood or Muir Woods Branch; so that the company operates over the following mileage:

| | Main line | Stollings | Total |
|-----------------------------------|-----------|-----------|-------|
| Main line ----- | 8.18 | 0.45 | 8.63 |
| Redwood or Muir Woods Branch----- | 2.40 | 0.13 | 2.53 |
| Totals ----- | 10.58 | 0.58 | 11.16 |

All of the company's property is located in Marin County. The work of construction was commenced in 1896, and the entire line was completed within eight (8) months, the first train being run to the end of the line on August 27, 1896. The Muir Woods branch line was built in 1906. It should be stated here that since the date of the valuation, June 30, 1913, the name of this company has been changed to Mt. Tamalpais and Muir Woods Railway, a fact which will not affect these findings. Inasmuch as this road depends almost exclusively for its revenue on sightseers and excursionists, it was built with the primary object of making the ride enjoyable and interesting for them, and the location, in consequence, was confined to open cuts along the slopes of Mt. Tamalpais. This resulted in a great many curves and steep grades; in fact, 68 per cent of the total length of the line is curved, the sharpest curve being 90 degrees. The maximum grade is 7 per cent; the elevation of the line at the initial point is 57 feet above sea level, while at the summit it is 2,337 feet. The road, therefore, in a distance of a little more than 8 miles overcomes a rise of 2,280 feet, so that the average gradient amounts to 5.2 per cent.

The road has been well built and is well kept up; the track is true to line and grade, and the drainage system is good. For runs over the entire line, on account of the steep grades and sharp curves, the com-

pany operates geared locomotives exclusively. Two trains per day each way are run on week days, while on Sundays and holidays five regular trains each way are operated.

2. Stocks and Bonds.

On June 30, 1913, there were authorized and outstanding 2,000 shares of a par value of \$100.00 each of capital stock, representing a total par value of \$200,000.00. Of this amount 1,890 shares were issued for cash, from which was realized, according to the company's annual report for the year ending June 30, 1913, a total amount of \$189,000.00. The remaining 110 shares, it is stated, were issued for additions and betterments.

The funded debt of the company consists of first and second mortgage bonds. On April 20, 1899, \$100,000.00 in first mortgage, 30-year, 5 per cent gold bonds were brought out. This entire issue is outstanding, and on the date of the appraisal there were held in sinking and other funds bonds of this issue to the amount of \$31,000.00. On October 5, 1908, an issue of \$100,000.00 in second mortgage, 20-year, 5 per cent gold bonds was authorized. Of this there were sold bonds to the amount of \$30,500.00 par value, while bonds to the par value of \$69,500.00 remain in the company's treasury. Second mortgage bonds to the amount of \$9,500.00 par value have since been taken up by the company and are held in sinking and other funds.

3. Revenues and Expenses.

The revenue of this company, with the exception of certain income from its non-operative property, is derived almost entirely from passenger traffic, the freight traffic being practically negligible. The annual report of the company for the year ending June 30, 1913, shows the following principal figures:

I. Revenue from Transportation:

| | |
|----------------------------|-----------|
| 1. Freight revenue ----- | \$55 00 |
| 2. Passenger revenue ----- | 73,018 53 |

Total income from rail operation----- \$73,073 53

II. Other Income:

| | |
|---|------------|
| 1. Miscellaneous rent income----- | \$1,321 20 |
| 2. Income from sinking and other reserve funds ----- | 2,025 00 |
| 3. Miscellaneous income ----- | 112 97 |

Total other income ----- 3,459 17

| | |
|---|---------|
| 4. Net revenue from outside auxiliary operations----- | 330 07* |
|---|---------|

Total income ----- \$76,862 77

*This item is made up as follows:

| | |
|--|-------------|
| Revenues from hotels and restaurants ----- | \$40,556 20 |
| Expenses for hotels and restaurants----- | 40,226 13 |

Net revenue ----- \$330 07

III. Operating Expenses:

| | |
|--------------------------------------|----|
| 1. Maintenance of way and structures | 72 |
| 2. Maintenance of equipment | 97 |
| 3. Traffic expenses | 40 |
| 4. Transportation expenses | 15 |
| 5. General expenses | 63 |
| 6. Taxes | 22 |

Total operating expenses 55,635 09

IV. Other Deductions:

| | |
|------------------------------|-----|
| 1. Interest on funded debt | 00. |
| 2. Interest on unfunded debt | 47 |

Total other deductions 8,374 47

Total deductions 64,009 56

Income balance \$12,853 21

Disposition was made of this income balance of \$12,853.21 as follows:

| | |
|--|----|
| Five per cent dividend on common stock | 00 |
| Loss on retired rent and equipment | 07 |
| Total | 07 |
| Less available credit balance | 21 |
| Deficit | 86 |

This same deficit is reflected in the company's balance sheet, which shows that the accumulated profits chargeable to profit and loss on June 30, 1912, amounted to \$120,744.75, and on June 30, 1913, to \$115,058.89, a reduction over the previous year of \$5,685.86.

The principal traffic and mileage statistics for the year ending June 30, 1913, follows:

| | |
|---|---------|
| Number of passengers carried earning revenue | 43,389 |
| Number of passengers carried one mile | 733,275 |
| Average distance carried, miles | 16.9 |
| Average amount received from each passenger | \$1.68 |
| Average receipt per passenger per mile, cents | 9.957 |
| Operating ratio | 71% |

4. Original Cost.

The company in its valuation as filed with the Commission (see Exhibit "A") states that the original cost of the road was \$461,702.02. This figure, however, is not based upon an actual book cost but is an estimate. The engineering department in its valuation report states that the original cost as defined in this opinion can not be ascertained, for the reason that the original cost records were lost. Considerable original cost data have been found for individual accounts and have been made use of in the valuation.

In its 1913 annual report to the Commission the company shows the investment for road and equipment as follows:

| | |
|---|---------------------|
| 1. Road ----- | \$286,930.08 |
| 2. Equipment ----- | 51,665.89 |
| 3. Investment since June 30, 1907.----- | 67,049.89 |
| Total ----- | <u>\$405,645.86</u> |
| Cost per mile of line----- | \$38,196.42 |

It will be noted that the engineering department's total for reproduction cost estimate and for reproduction cost less depreciation are both in excess of the company's original cost figure as shown in its annual report.

5. Reproduction Cost.

The reproduction cost estimate as filed by the company totaled \$555,807.73. The corresponding total as found by the Commission's engineering department in its original report was \$377,774.84 for operative property and \$121,169.61 for non-operative property, amounting to a total of \$498,944.45, making a difference of \$56,863.28.

The company entered its objections to the engineering department's estimate at the hearings referred to heretofore, and these objections will now be considered. The principal point of difference is caused by the distinction as made in the engineering department's report between operative and non-operative property, which distinction is not made by the company. This matter was fully gone into at both hearings, and it is my opinion that this road in this respect is in a class by itself.

From an auditing and accounting point of view the classification as shown appears to me entirely proper, and there is no question in my mind that from an operating standpoint solely the hotels, real estate, trails, platforms, cabins, cottages, barns, chicken yards and bird cages are not necessary for the operation of this railroad as a common carrier. On the other hand, it is well understood by the Commission that this is a pleasure and excursion road and that the hotel and restaurant facilities with other accessories are essential for the carrying on of this company's business. I am inclined, therefore, to permit the distinction between operative and non-operative property to stand as shown by the Commission's engineering department. I have already stated that this proceeding concerns itself with findings of fact, and whether or not the property classed as non-operative shall be taken into consideration in a rate matter or any other matter where the question of value will be important may well, in my opinion, be left for future determination.

Other objections made by the company are of minor importance and have all been gone into in a supplemental report made by the engineering department which is now before me, and a copy of which was furnished to the company. The adjustments and corrections made in this supplemental report result in a total increase over the original report (Exhibit "B") of \$6,620.51 for reproduction cost and \$4,129.54 for reproduction cost less depreciation. The revised final summary sheet is attached to this opinion and marked Exhibit "C." Inasmuch as the company has accepted the supplemental report of the engineering department, I do not consider it necessary here to go into the numerous individual engineering details.

I find, therefore, that the reproduction cost, as that term has hereinbefore been defined, of the operative property of the Mill Valley and Mount Tamalpais Scenic Railway, as of June 30, 1913, is the sum of \$384,395.35, and that the reproduction cost of the non-operative property amounts to \$121,169.61, resulting in a total for both operative and non-operative property of \$505,564.96.

6. Reproduction Cost Less Depreciation.

No testimony was presented at the hearing on the estimates under the heading "Reproduction Cost Less Depreciation" in the valuation of this railway. The changes which have been made in the engineering department's estimate of reproduction cost make it necessary to revise the corresponding figures, under this heading, in the engineering department's estimate. The details of these changes are clearly set forth in the supplemental report made by the Commission's engineering department, a copy of which was furnished to the company. The revised totals appear in Exhibit "C," which is attached to this opinion.

I find that the reproduction cost less depreciation, as that term has hereinbefore been defined, of the operative property of the Mill Valley and Mount Tamalpais Scenic Railway, as of June 30, 1913, is the sum of \$345,470.50, and that the reproduction cost less depreciation of the non-operative property of this company is the sum of \$105,086.58, resulting in a total for both operative and non-operative property of \$450,557.08.

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of February, 1915.

Name of owner, Mill Valley and Mt. Tamalpais Scenic Railway; operating company, same; from Mill Valley to Mt. Tamalpais; miles main line track, 19.6; miles yard tracks, etc., .63; total, 11.23.

EXHIBIT "A"

| Class No. | Form No. | I. C. C. Act No. | Classes | Original cost | Reproduction value | Cond. per cent | Present value |
|-----------|----------|------------------|---|---------------|--------------------|----------------|---------------|
| 1 | 1 | 2 | Right of way and station grounds..... | \$15,075 00 | \$39,429 50 | | \$73,628 00 |
| 2 | 2 | 3 | Real estate..... | 17,000 00 | 38,400 00 | | 38,400 00 |
| 3 | 3 | 4 | Grading..... | 56,634 95 | 101,922 70 | | 101,922 70 |
| 4 | 4 | 5 | Tunnels..... | | | | |
| 5 | 5 | 6 | Steel bridges and trusses..... | | | | |
| 6 | 6 | 6 | Pile and frame trestles..... | 12,080 05 | 3,892 20 | | 3,892 20 |
| 7 | 7 | 6 | Culverts..... | 6,403 19 | 6,403 19 | | 5,739 02 |
| 8 | 8 | 7 | Ties..... | 16,412 00 | 19,192 00 | | 11,945 00 |
| 9 | 9 | 8 | Rails..... | 42,517 65 | 41,535 20 | | 31,930 00 |
| 10 | 10 | 9 | Frogs and switches..... | 2,360 00 | 2,360 00 | | 1,615 00 |
| 11 | 11 | 10 | Track fastenings and other material..... | 11,249 60 | 15,187 50 | | 11,890 50 |
| 12 | 12 | 11 | Ballast..... | 7,550 00 | 10,176 00 | | 10,176 00 |
| 13 | 13 | 12 | Tracklaying and surfacing..... | 10,879 00 | 10,879 00 | | 10,879 00 |
| 14 | 14 | 13 | Roadway tools..... | 547 90 | 547 90 | | 447 15 |
| 15 | 15 | 14 | Fencing right of way..... | | | | |
| 16 | 16 | 15 | Crossings and signs..... | 501 24 | 501 24 | | 339 59 |
| 17 | 17 | 16 | Interlocking plants..... | | | | |
| 18 | 18 | 16 | Signal apparatus..... | | | | |
| 19 | 19 | 17 | Telegraph and telephone lines..... | 1,610 91 | 2,975 11 | | 2,718 84 |
| 20 | 20 | 18 | Station buildings and fixtures..... | 1,250 00 | 1,000 00 | | 1,000 00 |
| 21 | 21 | 18 | Platforms, walks, paving and curb..... | 4,885 58 | 4,885 58 | | 4,880 00 |
| 22 | 22 | 19 | General office buildings and fixtures..... | | | | |
| 23 | 23 | 20 | Shop buildings and engine houses..... | 1,000 00 | 1,191 00 | | 1,000 00 |
| 24 | 24 | 20 | Transfer and turntables, cinder pits, etc..... | | | | |
| 25 | 25 | 20 | Miscellaneous shop buildings and structures..... | | | | |
| 26 | 26 | 21 | Shop machinery and tools..... | 3,858 00 | 3,858 00 | | 2,885 00 |
| 27 | 27 | 22 | Water stations..... | 1,570 00 | 2,060 00 | | 1,825 00 |
| 28 | 28 | 23 | Fuel stations..... | 846 40 | 1,004 50 | | 900 00 |
| 29 | 29 | 24 | Grain elevators..... | | | | |
| 30 | 30 | 25 | Storage warehouses..... | | | | |
| 31 | 31 | 26 | Dock and wharf property..... | | | | |
| 32 | 32 | 27 | Electric light plants..... | | | | |
| 33 | 33 | 28 | Electric power plants..... | | | | |
| 34 | 34 | 29 | Electric power transmission..... | | | | |
| 35 | 35 | 30 | Gas producing plants..... | | | | |
| 36 | 36 | 31 | Miscellaneous structures..... | 74,475 59 | 74,475 59 | | 74,475 59 |
| 37 | 37 | 1 | Total classes 1 to 36, inclusive..... | \$331,727 06 | \$581,880 24 | | \$392,538 50 |
| 38 | 38 | 32 | Engineering, 5 per cent, 1 to 36, inclusive..... | 16,586 35 | 19,244 01 | | 19,626 33 |
| 39 | 39 | 33 | Transportation of men and material..... | | | | |
| 40 | 40 | 34 | Rent of equipment..... | | | | |
| 41 | 41 | 35 | Repairs of equipment..... | | | | |
| 42 | 42 | 36 | Earning and operating expenses during construction..... | | | | |
| 43 | 43 | 37 | Injuries to persons..... | | | | |
| 44 | 44 | 38 | Cost of road purchased..... | | | | |
| 45 | 45 | 39 | Total classes 1 to 43, inclusive..... | \$348,313 41 | \$601,124 25 | | \$412,165 52 |
| 46 | 46 | 40 | Steam locomotives..... | 37,141 00 | 46,700 00 | | 46,500 00 |
| 47 | 47 | 41 | Electric locomotives..... | | | | |
| 48 | 48 | 42 | Passenger train cars..... | 31,229 00 | 32,079 00 | | 31,079 00 |
| 49 | 49 | 43 | Freight train cars..... | 600 00 | 600 00 | | 600 00 |
| 50 | 50 | 44 | Work equipment..... | | | | |
| 51 | 51 | 45 | Floating equipment..... | | | | |
| 52 | 52 | 46 | Total classes 1 to 49, inclusive..... | \$417,574 41 | \$483,803 25 | | \$490,314 52 |
| 53 | 53 | 47 | Law expenses, $\frac{1}{2}$ per cent, classes 1 to 36, inclusive..... | 1,658 64 | 1,924 40 | | 1,962 69 |
| 54 | 54 | 48 | Stationery and printing..... | | | | |
| 55 | 55 | 49 | Insurance..... | | | | |
| 56 | 56 | 50 | Taxes..... | | | | |
| 57 | 57 | 51 | Total classes 1 to 53, inclusive..... | \$419,232 05 | \$485,727 65 | | \$492,307 21 |
| 58 | 58 | 52 | Interest and commission, 5 per cent, classes 1 to 53, inclusive..... | 20,941 65 | 24,286 38 | | 24,615 34 |
| 59 | 59 | 53 | Other expenditures..... | 12,239 32 | 12,239 32 | | 12,239 32 |
| 60 | 60 | 54 | Contingencies, 5 per cent, classes 1 to 53, inclusive..... | | 24,286 38 | | 24,615 36 |
| 61 | 61 | 55 | Stores and supplies on hand for use in California..... | 9,268 00 | 9,268 00 | | 9,268 00 |
| 62 | 62 | 56 | Grand total..... | \$461,702 02 | \$555,867 73 | | \$533,045 25 |
| 63 | 63 | 57 | Average per mile for main line track..... | 41,670 00 | 52,425 20 | | 53,117 50 |

Name of owner, Mill Valley and Mt. Tamalpais Seaside Railway; operating company, same; division, entire line; from Mill Valley to Mt. Tamalpais and Muir Woods; miles main line track, 19.58; miles yard tracks, etc., .5763; total, 20.1563.

Valuation as of June 30, 1913; Gibson Berry, field inspector and office compiler; date compiled, August, 1913.

EXHIBIT "B"

| Class No. | Form No. | I. C. C. Act. No. | Classes | Original cost | Reproduction value | Conl. per cent | Present value |
|--|----------|-------------------|---|---------------|--------------------|----------------|---------------|
| 1 | 1 | 2 | Right of way and station grounds..... | | \$48,971 97 | 100 | \$48,971 97 |
| 2 | 2 | 3 | Real estate | | | | |
| 3 | 3 | 4 | Grading | | 95,388 90 | 106 | 102,297 16 |
| 4 | 4 | 5 | Tunnels | | | | |
| 5 | 5 | 6 | Steel bridges and trusses | | 4,210 82 | 89 | 3,726 03 |
| 6 | 6 | 6 | Pile and frame trestles | | 5,723 81 | 86 | 4,929 76 |
| 7 | 7 | 6 | Culverts | | 15,556 95 | 74 | 8,569 40 |
| 8 | 8 | 7 | Ties | | 39,566 33 | 74 | 29,157 05 |
| 9 | 9 | 8 | Rails | | 2,185 64 | 69 | 1,503 11 |
| 10 | 10 | 9 | Frogs and switches | | 9,241 84 | 67 | 6,187 95 |
| 11 | 11 | 10 | Track fastenings and other material | | 1,777 44 | 100 | 1,777 44 |
| 12 | 12 | 11 | Ballast | | 10,631 20 | 70 | 7,437 92 |
| 13 | 13 | 12 | Tracklaying and surfacing | | 561 60 | 80 | 449 28 |
| 14 | 14 | 13 | Roadway tools | | | | |
| 15 | 15 | 14 | Fencing right of way | | | | |
| 16 | 16 | 15 | Crossings and signs | | 333 45 | 80 | 420 10 |
| 17 | 17 | 16 | Interlocking plants | | | | |
| 18 | 18 | 16 | Signal apparatus | | | | |
| 19 | 19 | 17 | Telegraph and telephone lines | | 2,574 25 | 80 | 2,059 40 |
| 20 | 20 | 18 | Station buildings and fixtures | | 877 40 | 74 | 644 47 |
| 21 | 21 | 18 | Platforms, walks, paving and curb | | 1,113 54 | 80 | 892 70 |
| 22 | 22 | 19 | General office buildings and fixtures | | | | |
| 23 | 23 | 20 | Shop buildings and engine houses | | 1,880 92 | 60 | 1,128 55 |
| 24 | 24 | 20 | Transfer and turntables, cinder pits, etc. | | | | |
| 25 | 25 | 20 | Miscellaneous shop buildings and structures | | 211 55 | 57 | 120 13 |
| 26 | 26 | 21 | Shop machinery and tools | | 3,050 20 | 78 | 2,369 26 |
| 27 | 27 | 22 | Water stations | | 1,186 54 | 70 | 830 58 |
| 28 | 28 | 23 | Fuel stations | | 1,028 28 | 80 | 822 62 |
| 29 | 29 | 24 | Grain elevators | | | | |
| 30 | 30 | 25 | Storage warehouses | | | | |
| 31 | 31 | 26 | Dock and wharf property | | | | |
| 32 | 32 | 27 | Electric light plants | | | | |
| 33 | 33 | 28 | Electric power plants | | | | |
| 34 | 34 | 29 | Electric power transmission | | | | |
| 35 | 35 | 30 | Gas producing plants | | | | |
| 36 | 36 | 31 | Miscellaneous structures | | 421 04 | 68 | 287 26 |
| Total classes 1 to 36, inclusive..... | | | | | \$267,056 12 | 92 | \$244,374 14 |
| 37 | 37 | 1 | Engineering, 5 per cent, 3 to 36, inclusive (R. V.) | | 9,934 20 | 100 | 9,934 20 |
| 38 | 38 | 32 | Transportation of men and material | | | | |
| 39 | 39 | 33 | Rent of equipment | | | | |
| 40 | 40 | 34 | Repairs of equipment | | | | |
| 41 | 41 | 35 | Earning and operating expenses during construction | | | | |
| 42 | 42 | 35 | Injuries to persons | | | | |
| 43 | 43 | 36 | Cost of road purchased | | | | |
| Total classes 1 to 43, inclusive..... | | | | | \$277,596 32 | 92 | \$254,368 34 |
| 44 | 44 | 37 | Steam locomotives | | 45,361 00 | 81 | 36,497 00 |
| 45 | 45 | 38 | Electric locomotives | | | | |
| 46 | 46 | 39 | Passenger train cars | | 36,164 00 | 89 | 32,267 00 |
| 47 | 47 | 40 | Freight train cars | | 707 00 | 79 | 556 00 |
| 48 | 48 | 41 | Work equipment | | | | |
| 49 | 49 | 42 | Floating equipment | | | | |
| Total classes 1 to 49, inclusive..... | | | | | \$340,062 32 | 90 | \$323,628 34 |
| 50 | 50 | 43 | Law expenses, 1 per cent, classes 3 to 36, inclusive | | 1,983 84 | 100 | 1,983 84 |
| 51 | 51 | 44 | Stationery and printing (incorporated in England, R. V.) | | | | |
| 52 | 52 | 45 | Insurance (included in R. V.) | | | | |
| 53 | 53 | 46 | Taxes and other expenditures | | | | |
| Total classes 1 to 53, inclusive..... | | | | | \$362,040 16 | 91 | \$325,615 18 |
| 54 | 54 | 47 | Interest and commission, 3 per cent, classes 1 to 53, inclusive (R. V.) | | 8,792 29 | 100 | 8,792 29 |
| 55 | 55 | 48 | Other expenditures, 1 per cent, classes 1 to 53, inclusive (R. V.) | | 1,465 39 | 100 | 1,465 39 |
| 56 | 56 | 49 | Contingencies, 2 per cent, classes 1 to 53, inclusive | | | | |
| 57 | 57 | 50 | Stores and supplies on hand for use in California | | 5,498 00 | | 5,498 00 |
| Grand total | | | | | \$377,774 84 | 91 | \$341,340 84 |
| Average per mile for main line track | | | | | 35,706 50 | 100 | 32,262 82 |
| Non-operative property not included in above | | | | | 121,169 61 | | 165,686 58 |

Owning company, Mill Valley and Mt. Tamalpais Scenic Railway; operating company, same; valuation unit, entire line; county, Marin County.

Submitted with report of Richard Sachse; date compiled, February 1, 1915; line 1st track, 10.58 miles; yard tracks, sidings, etc., .5763 miles; total, 11.1563 miles.

EXHIBIT "C"

| Class No. | Form No. | Acct. No. | Classes | Original cost | Reproduction value | Cond. per cent | Present value |
|-----------|----------|-----------|--|---------------|--------------------|----------------|---------------|
| 37 | 1 | 1 | Engineering | | \$10,235 93 | 100 | \$10,235 93 |
| 1 | 2 | 2 | Right of way and station grounds | | 68,971 97 | 100 | 68,971 97 |
| 2 | 3 | 3 | Real estate | | | | |
| 3 | 4 | 4 | Grading | | 96,388 90 | 106 | 102,297 16 |
| 4 | 5 | 5 | Tunnels | | | | |
| 5 | 6 | 6 | Steel bridges and trusses | | | | |
| 6 | 7 | 7 | Pile and frame trestles | | 4,210 82 | 89 | 3,726 03 |
| 7 | 8 | 8 | Culverts | | 6,600 75 | 89 | 5,400 85 |
| 8 | 9 | 9 | Ties | | 18,136 44 | 54 | 9,945 92 |
| 9 | 10 | 10 | Rails | | 39,506 53 | 74 | 29,157 05 |
| 10 | 11 | 11 | Frogs and switches | | 2,185 64 | 69 | 1,493 11 |
| 11 | 12 | 12 | Track fastenings and other material | | 9,270 12 | 67 | 6,207 74 |
| 12 | 13 | 13 | Ballast | | 1,777 44 | 100 | 1,777 44 |
| 13 | 14 | 14 | Tracklaying and surfacing | | 13,120 28 | 70 | 9,184 28 |
| 14 | 15 | 15 | Roadway tools | | 561 60 | 80 | 449 28 |
| 15 | 16 | 16 | Fencing right of way | | | | |
| 16 | 17 | 17 | Crossings and signs | | 533 45 | 80 | 420 10 |
| 17 | 18 | 18 | Interlocking plants | | | | |
| 18 | 19 | 19 | Signal apparatus | | | | |
| 19 | 20 | 20 | Telegraph and telephone lines | | 2,571 25 | 80 | 2,059 40 |
| 20 | 21 | 21 | Station buildings and fixtures | | 877 40 | 74 | 646 47 |
| 21 | 22 | 22 | Platforms, walks, paving and curb | | 1,113 54 | 80 | 892 70 |
| 22 | 23 | 23 | General office buildings and fixtures | | | | |
| 23 | 24 | 24 | Shop buildings and engine houses | | 1,880 92 | 60 | 1,128 55 |
| 24 | 25 | 25 | Transfer and turntables, cinder pits, etc. | | | | |
| 25 | 26 | 26 | Miscellaneous shop buildings and structures | | 211 56 | 57 | 120 13 |
| 26 | 27 | 27 | Shop machinery and tools | | 3,050 20 | 78 | 2,391 26 |
| 27 | 28 | 28 | Water stations | | 1,186 54 | 70 | 830 58 |
| 28 | 29 | 29 | Fuel stations | | 1,028 28 | 80 | 822 62 |
| 29 | 30 | 30 | Grain elevators | | | | |
| 30 | 31 | 31 | Storage warehouses | | | | |
| 31 | 32 | 32 | Dock and wharf property | | | | |
| 32 | 33 | 33 | Electric light plants | | | | |
| 33 | 34 | 34 | Electric power plants | | | | |
| 34 | 35 | 35 | Electric power transmission | | | | |
| 35 | 36 | 36 | Gas producing plants | | | | |
| 36 | 37 | 37 | Miscellaneous structures | | 424 04 | 68 | 287 26 |
| 37 | 38 | 38 | Transportation of men and material | | | | |
| 38 | 39 | 39 | Rent of equipment | | | | |
| 39 | 40 | 40 | Repairs of equipment | | | | |
| 40 | 41 | 41 | Earning and operating expenses during construction | | | | |
| 41 | 42 | 42 | Injuries to persons | | | | |
| 42 | 43 | 43 | Cost of road purchased | | | | |
| 43 | 44 | 44 | Steam locomotives | | 45,391 00 | 81 | 36,497 00 |
| 44 | 45 | 45 | Electric locomotives | | | | |
| 45 | 46 | 46 | Passenger train cars | | 36,164 00 | 89 | 32,267 00 |
| 46 | 47 | 47 | Freight train cars | | 707 00 | 79 | 556 60 |
| 47 | 48 | 48 | Work equipment | | | | |
| 48 | 49 | 49 | Floating equipment | | | | |
| 49 | 50 | 50 | Law expenses | | 2,047 19 | 100 | 2,047 19 |
| 50 | 51 | 51 | Stationery and printing | | | | |
| 51 | 52 | 52 | Insurance | | | | |
| 52 | 53 | 53 | Taxes | | | | |
| 53 | 54 | 54 | Interest and commission | | 8,984 19 | 100 | 8,984 19 |
| 54 | 55 | 55 | Other expenditures | | 1,497 37 | 100 | 1,497 37 |
| 55 | 56 | 56 | Stores and supplies on hand for use in California | | 5,468 00 | 100 | 5,468 00 |
| 56 | 57 | 57 | Grand total | | \$284,395 35 | 90 | \$255,470 50 |
| | | | Non-operative property, not included in above | | 121,169 61 | | 105,089 58 |
| | | | Total property, operative and non-operative | | | | |
| | | | Average per mile for main track | | \$505,564 96 | | \$450,557 08 |
| | | | | | 36,332 26 | 90 | 32,653 20 |

DECISION No. 2181.

JULIUS HEYMAN COMPANY

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND
NORTHWESTERN PACIFIC RAILROAD COMPANY.

Case No. 738.

Decided February 27, 1915.

Complainants alleging that defendant railways accepted a carload shipment of lumber to Dinuba when their line did not reach said city, thereby incurring to complainant a drayage bill of \$12.00, together with \$6.00 demurrage charges, which sum complainant petitions defendants be directed to refund, and it appearing the point of delivery was not directly responsible for the accrual of demurrage and the Commission having no jurisdiction to compel carriers to refund to shippers drayage charges, even though incurred through the negligence of such carriers, complaint dismissed.

Alexander Heyman, for Complainant.*Platt Kent*, for the Atchison, Topeka and Santa Fe Railway Company.*J. J. Geary* and *A. S. Humphreys*, for Northwestern Pacific Railroad Company.

REPORT OF THE COMMISSION.

DEVLIN, Commissioner.

The complainant in this case is a corporation engaged in the business of buying and selling lumber on commission. In its complaint filed December 22, 1914, it alleges that it has been damaged by reason of defendants' failure to transport to the proper destination a carload shipment of grape stakes consigned to it at Dinuba and asks this Commission to so find and award reparation accordingly.

The substantial facts are as follows: On or about January 17, 1914, the complainant instructed its Agent at Yews Spur, a point located on the Sherwood Branch of the Northwestern Pacific Railroad thirteen miles north of Willits, to ship one car of grape stakes to the complainant at Del Rey, California, a local station on the line of The Atchison, Topeka and Santa Fe Railway Company, approximately 20 miles south of Fresno. The complainant's Agent accordingly ordered a car for loading from the Northwestern Pacific Railroad Company, specifying the character and destination of the shipment to be loaded thereinto, and upon this information that Company supplied the shipper with a car that had been furnished to it by The Atchison, Topeka and Santa Fe Railway Company. There was some delay in loading the car and on that account the complainant forwarded a car to Del Rey from another point and instructed its agent at Yews Spur to forward the car loaded at that point to Dinuba. The bill of lading was made out accordingly and Dinuba shown as the destination of the shipment.

No routing was specified in the bill of lading. The Agent of the Northwestern Pacific Railroad Company informed the shipper that the shipment would have to be transferred to a car furnished by the Southern Pacific Company if it desired the shipment transported to the destination shown in the bill of lading, the rules governing the interchange of equipment between these lines requiring that cars supplied the Northwestern Pacific Railroad Company by either The Atchison, Topeka and Santa Fe Railway Company or Southern Pacific Company be returned to the Company from which they are received and reproved the shipper for ordering a car for loading to a point on The Atchison, Topeka and Santa Fe Railway and thereafter consigning the shipment to a point on the line of the Southern Pacific Company.

After a further investigation, however, the Agent of the Northwestern Pacific Railroad Company informed the shipper that The Atchison, Topeka and Santa Fe Railway also reached Dinuba and the shipper then instructed that the car be forwarded via that line and the shipment moved accordingly. Upon arrival of the shipment at the station called Dinuba on The Atchison, Topeka and Santa Fe Railway the party to whom the shipment was sold by the complainant took delivery at that point and drayage the shipment to the incorporated town of Dinuba, approximately one and three-quarters miles distant therefrom. The drayage expense was \$12.00 and in addition two days demurrage accrued for which the carrier assessed and collected \$6.00 in accordance with its demurrage rules and the complainant now seeks to have this Commission award it damages in the sum of \$18.00, which represents, it alleges, the additional expense to which it was put, by reason of the carrier's error in misrouting the shipment, in order to effect delivery of the shipment at Dinuba in accordance with the conditions of its sale. The complainant contends that Dinuba is located only on the line of the Southern Pacific Company and that it was improper and misleading for The Atchison, Topeka and Santa Fe Railway Company to indicate on its official map and in its station list that Dinuba was reached by its line, and further that the Agent of the Northwestern Pacific Railroad Company erred in routing the shipment via the line of The Atchison, Topeka and Santa Fe Railway Company. The Atchison, Topeka and Santa Fe Railway Company admits that its line does not reach the incorporated town of Dinuba and that the station on its line formerly called Dinuba, but which is now called North Dinuba, is in fact approximately one and three-quarters miles therefrom although Dinuba was shown on its official map and in its station list as a station on its line.

It seems unnecessary to state that such a practice is improper and serves to mislead shippers and agents in the routing of shipments; thus

the Agent of the Northwestern Pacific Railroad Company was misled and erroneously instructed the shipper that Dinuba was located on the line of The Atchison, Topeka and Santa Fe Railway and induced the shipper to give his verbal instructions to forward the shipment by that line. As the destination shown in the bill of lading was not located on the line of The Atchison, Topeka and Santa Fe Railway and as the bill of lading did not specify routing via the line of The Atchison, Topeka and Santa Fe Railway, the agent of the Northwestern Pacific Railroad Company misrouted the shipment via the latter line and the conclusion follows that the complainant is entitled to an award of damages equal to the amount of the additional expense to which complainant was put to effect delivery in Dinuba by reason of such misrouting. That expense would include, it appears from the record, the expense of the drayage from The Atchison, Topeka and Santa Fe Railway station called Dinuba to the town of Dinuba proper but as it does not appear from the record that the demurrage accrued solely because of the fact that shipment was improperly routed and delivered at the station called Dinuba on The Atchison, Topeka and Santa Fe Railway instead of at the incorporated town of Dinuba the charge therefor should not be included. It appears from the record that notification of arrival of the shipment was duly received and delivery of same taken by the Agent of the consignee. In this connection the record shows that the shipment arrived at the point called Dinuba on The Atchison, Topeka and Santa Fe Railway on February 10, 1914, at 12:18 p.m. and that the consignee or the party to whom the consignee had instructed that delivery be made was notified by telephone of the arrival of the shipment at 2:00 p.m. on the same day and that the car actually placed for unloading at 7:00 a.m. on February 11, 1914, but was not released until February 16, 1914, at 3:00 p.m. It appears, therefore, that the shipment was not unloaded within the first forty-eight hours following the placement of the car and after notification of arrival had been given to the consignee or his Agent and that in fact the car was not released until 96 hours after the shipper was notified of its arrival and the car was placed for unloading. The complainant introduced no evidence in explanation of the delay in unloading and releasing the car and in the absence of an affirmative showing by the complainant that the demurrage actually accrued for reasons other than its own negligence in unloading, it would be improper to require the carrier to refund the demurrage collected. The demurrage might have accrued if the shipment had been forwarded by the Southern Pacific Company to Dinuba and in the absence of a showing that it accrued solely because of the

misrouting of the shipment I am of the opinion that the complainant is not entitled to a refund of the demurrage charges. It is my opinion that the originating carrier should not be charged with the responsibility for the misrouting of this shipment but that responsibility therefor should rest upon The Atchison, Topeka and Santa Fe Railway Company, which line improperly included in its official list of stations the town of Dinuba and showed that point as being located on its line on its official map and thereby led the Agent of the Northwestern Pacific Railroad Company to erroneously forward the shipment via its line and it is my opinion that The Atchison, Topeka and Santa Fe Railway Company should refund to the shipper the additional expense to which it was put by reason of carriers' error in misrouting this shipment.

While I am of the opinion that the complainant is entitled to refund of the additional drayage charges which were incurred in order to effect the proper delivery of this misrouted shipment in Dinuba in accordance with the terms of its sale, the Public Utilities Act does not give to the Commission power in cases such as this to award damages, and recovery thereof must be sought in court. Section 71 of that Act empowers the Commission to award reparation where an excessive or discriminatory rate has been charged but in this case no such claim is made nor does it appear that such a rate has been imposed, and it follows that the complaint will have to be dismissed.

In the original complaint filed in this proceeding The Atchison, Topeka and Santa Fe Railway Company only was shown as a defendant. At the hearing, however, a representative of the Northwestern Pacific Railroad Company appeared and accepted service of the complaint and waived notice of hearing. The complaint was therefore accordingly amended and the Northwestern Pacific Railroad Company made a co-defendant.

I submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and a full investigation of the matters and things involved having been had and being apprised in the premises,

It is hereby ordered that the complaint be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th of February, 1915.

DECISION No. 2182.

IN THE MATTER OF THE APPLICATION OF SANTA BARBARA GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING IT TO ISSUE TO THE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS ITS BONDS BEARING INTEREST AT THE RATE OF SIX PER CENT PER ANNUM.

Application No. 1525.

Decided February 27, 1915.

Applicant authorized to issue its 6 per cent thirty-year bonds of the face value of \$100,000.00 to be sold at not less than 95, proceeds to be used to discharge \$38,000.00 of outstanding notes, the balance for additions and improvements to system.

Harry J. Bauer, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application by Santa Barbara Gas and Electric Company, operating a gas and electric plant in the city of Santa Barbara and vicinity, for authority to issue \$100,000.00 of its six per cent thirty-year bonds. It is proposed to sell these bonds at 95 per cent of their par value and to use the proceeds as follows:

| | |
|---|---------------------|
| To discharge certain notes payable----- | \$38,000 00 |
| To defray cost of extensions and additions to the Company's properties ----- | 62,000 00 |
| Total ----- | \$100,000 00 |

The Santa Barbara Gas and Electric Company has an authorized issue of 5,000 shares of preferred stock and 5,000 shares of common stock; all of the par value of \$100.00 per share. The company has outstanding 4,000 shares of its preferred stock and 4,009 shares of its common stock. The preferred stock is 6 per cent cumulative with the right to participate ratably with the common stock in any dividends declared in excess of 6 per cent per annum on the entire outstanding capital stock.

The applicant has issued its bonds under a trust deed dated July 1, 1911, to Los Angeles Trust and Savings Bank as security for an authorized issue of \$1,000,000.00 of bonds.

| | |
|--|---------------------|
| The applicant reports outstanding as of December 31, 1914, bonds in the sum of----- | \$750,500 00 |
| It reports notes outstanding as of the same date, amounting to | 74,000 00 |
| Accounts payable amounting to----- | 35,018 98 |
| Total ----- | \$859,518 98 |

Under the terms of the applicant's trust deed, it may issue bonds not to exceed 75 per cent of actual and reasonable cash expenditures made for extensions and additions to its properties.

For the year ending December 31, 1914, the applicant paid 5 per cent dividends on its preferred stock and 3 per cent on its common stock, making a total dividend disbursement of \$32,000.00.

For the calendar year 1914, the Santa Barbara Gas and Electric Company reports earnings and expenditures as follows:

| | | |
|--|--------------|--------------|
| Gross earnings year ending December 31, 1914..... | \$282,097 67 | |
| Operating expenses | 163,434 88 | |
| Net earnings | | \$118,662 79 |
| Interest on bonds outstanding and now to be certified..... | 47,310 00 | |
| Balance | | \$71,352 79 |
| Depreciation 1914 | | 36,500 00 |
| Balance | | \$34,852 79 |
| Amortization of debt discount and rents, 1914..... | | 1,212 45 |
| Balance | | \$33,640 33 |
| <i>Other Interest Deductions:</i> | | |
| Notes outstanding December 31, 1914..... | \$74,000 00 | |
| To be retired with proceeds of bonds..... | 36,100 09 | |
| Interest at 6 per cent on | \$37,900 00 | \$2,217 00 |
| Balance | | \$31,366 33 |
| <i>Interest and Amortization Included in Above:</i> | | |
| Bond interest | \$47,310 00 | |
| Amortization | 1,212 46 | |
| Note interest | 2,274 00 | |
| | \$50,796 46 | |
| Actual total for year 1914..... | 46,990 81 | \$3,805 65 |
| Actual surplus for year 1914..... | | \$35,171 98 |
| Dividends paid 1914..... | | 32,000 00 |
| Balance | | \$3,171 98 |

The applicant submitted an appraisal of its properties as of December 31, 1914, in the sum of \$1,114,946.22.

The applicant did not submit a list of the additions and betterments which it proposes to construct from the proceeds of the bonds which it now proposes to issue. At the hearing, the attorney for the applicant requested that at this time a preliminary order only be issued as to the bonds for additions and betterments, and that supplemental orders thereafter be issued from time to time as the applicant files the necessary details of its proposed construction.

I recommend that this application be granted and submit the following form of order:

ORDER.

Santa Barbara Gas and Electric Company having made application to this Commission for authority to issue \$100,000.00 of its six per cent

30-year bonds, as set forth in the foregoing opinion, and a hearing having been held and it appearing that the purposes for which it is desired to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Santa Barbara Gas and Electric Company be given authority and is hereby given authority to issue \$100,000.00 of its six per cent 30-year bonds under its trust indenture to Los Angeles Trust and Saving Bank, trustee, dated July 1, 1911, said bonds maturing July 1, 1941.

The authority herein given is given upon the following conditions and not otherwise:

(1) The bonds herein authorized to be issued shall be sold by the applicant at not less than 95 per cent of par value plus accrued interest.

(2) The proceeds derived from the sale of the bonds shall be used for the following purposes:

| Favor | Date | Amount | Due |
|---|----------------|---------------------|---------------|
| (a) To discharge the following notes: | | | |
| Commercial Bank of Santa Barbara..... | Sept. 13, 1913 | \$10,000 00 | 1-day note |
| First National Bank, Santa Barbara..... | Sept. 22, 1913 | 5,000 00 | 1-day note |
| First National Bank, Santa Barbara..... | Sept. 22, 1913 | 5,000 00 | 1-day note |
| Santa Barbara County National Bank..... | Sept. 25, 1913 | 3,000 00 | 1-day note |
| Santa Barbara County National Bank..... | Dec. 18, 1913 | 5,000 00 | 1-day note |
| The Commercial Bank, Santa Barbara..... | Oct. 26, 1914 | 5,000 00 | Jan. 24, 1915 |
| First National Bank, Santa Barbara..... | Oct. 26, 1914 | 5,000 00 | Jan. 24, 1915 |
| | | \$38,000 00 | |
| (b) For additions and betterments to applicant's plant or system..... | | 62,000 00 | |
| Total | | \$100,000 00 | |

(3) The bonds herein authorized to be issued, as set forth in subdivision "B" of condition No. 2, shall be issued and sold only after the applicant shall have filed with this Commission a detailed statement of such proposed additions and betterments, and shall have received from this Commission a supplemental order specifically authorizing the use of the proceeds of the bonds herein authorized therefor.

(4) Santa Barbara Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued: and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted shall apply to such bonds as shall have been issued on or before December 31, 1915.

(6) The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of February, 1915.

Decisions Nos. 2183, 2184, 2185, grade crossings; not printed. See end of volume.

DECISION No. 2186.

IN THE MATTER OF THE ADEQUACY OF THE STATION FACILITIES
OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
AT SAN DIEGO, CALIFORNIA.

Case No. 780.

Decided March 1, 1915.

Santa Fe Railway Company having previously been granted permission to construct certain tracks across streets within the city of San Diego, necessary in connection with the operation of its new depot, provided that B street be closed for a period of three years pending a permanent solution of such crossing, and the required ordinance having been passed by proper authorities of San Diego, such railway now refuses to open the new depot unless the city permanently closes B street, which action the city refuses to take and it appearing the public convenience urgently requires the additional facilities provided by the new depot and trackage:

Held, The Atchison, Topeka and Santa Fe Railway directed to construct the necessary connecting tracks and to open and operate through its new depot in the city of San Diego within ten days and within four weeks to completely remove its old depot and complete its proposed new track layout as heretofore provided.

E. W. Camp, for the Atchison, Topeka and Santa Fe Railway Company.

T. B. Cosgrove, City Attorney for City of San Diego.

M. A. Luce, for B Street property owners.

O. W. Cotton, for San Diego Realty Board.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an investigation on the Railroad Commission's own motion into the adequacy of the station facilities of The Atchison, Topeka and Santa Fe Railway Company, hereinafter referred to as the Santa Fe, at San Diego. A public hearing was held in San Diego on February 19, 1915.

The present passenger depot building of the Santa Fe at San Diego was built in 1887. It is a wooden structure which has outlived its usefulness and is now clearly inadequate to handle the Santa Fe's passen-

ger business at San Diego. The present track layout and other facilities are also no longer adequate to meet the present reasonable requirements. Realizing this condition, the Santa Fe planned a new passenger depot, new freight house and a far more extensive track layout, all as indicated on a tracing which is attached to the petition in Application No. 1461 and marked Exhibit "A." This exhibit as well as the testimony of Mr. G. W. Harris and Mr. Hunt, officials of the Santa Fe, presented in Application No. 1461 were made a part of the record in this proceeding. Pursuant to this plan, the Santa Fe has erected various new structures on its depot grounds in San Diego, including a fully equipped and artistic passenger depot which would be a credit to the Santa Fe and to San Diego, if opened. Although the new depot has been completed for some time, the Santa Fe has refused to open it and has compelled and is still compelling the traveling public to use the dilapidated, and inadequate facilities which the new depot was intended to replace. This condition of affairs is particularly aggravating at the present time, in view of the fact that thousands of passengers are traveling to and from San Diego over the lines of the Santa Fe for the purpose of visiting and returning from the Panama-California Exposition at San Diego.

The Commission received complaint from the San Diego Realty Board concerning the Santa Fe's failure to open its new passenger depot and after a personal inspection by one of its members, instituted this investigation on its own motion.

At the hearing, Richard Sachse, the Commission's chief engineer, testified that public convenience and necessity require the opening and operation of the new passenger depot, that two tracks necessary to connect the company's existing tracks with the new depot can be constructed within one week at an expense of not over \$500.00, net including paving on B street and to the north thereof, and that the present old depot can be torn down and the Santa Fe station plans completely executed within three weeks.

The evidence further shows and I find as facts that the present station and depot facilities are entirely inadequate to meet the reasonable requirements of the traveling public; that the present depot building is inadequate and dilapidated; that passengers from the rear coaches are compelled to alight in mud when it has rained and in dust in dry weather, frequently among box cars, and to cross an exposed switch track in order to reach the public streets and that the Santa Fe has failed in these respects to take the most ordinary precautions for the convenience of its passengers; and that the present track layout is entirely inadequate for the proper handling of passenger traffic.

At the hearing, a portion of the Santa Fe's own allegations in the petition in Application No. 1461 was read into the record. The Santa Fe alleged in part that the City of San Diego has, during the last year, been engaged in the work of preparing for the opening of the Panama-California Exposition, and that the Exposition has been widely advertised throughout the United States and other countries of the world and undoubtedly will attract large numbers of people thereto; that for the purpose of providing ample and comfortable facilities for handling this traffic, the Santa Fe has necessarily expended a large sum of money in demolishing its old facilities and building new ones at San Diego, consisting of new passenger and freight depots and altered yard and terminal facilities; that among other things still necessary to be done by the Santa Fe is the tearing down and removal of its old passenger depot, the installation of additional railway tracks across B street and the laying down of vitrified brick pavement; and that the convenience of the public having business with the Santa Fe at its station and of travelers to San Diego and its Exposition "absolutely demands and requires" that this work be done and that the Santa Fe desires to undertake this work and to complete it by the time the Exposition opens. Reference is made to these allegations for the reason that they show that the Santa Fe itself unqualifiedly recognizes that public convenience and necessity demand and require the tearing down of the old passenger depot and the operation of the new depot and the necessary track lay-out in connection therewith.

In answer to the direct question why the Santa Fe is refusing to open the new passenger depot and to complete its own station plans in connection therewith, Mr. E. W. Camp, solicitor for the Santa Fe, replied that the sole and only reason is because the City of San Diego has not permanently closed B street, as requested by the Santa Fe. This contention makes necessary a brief reference to the B street crossing. On December 17, 1914, the Santa Fe filed with this Commission its petition in Application No. 1461, requesting an order authorizing the company to construct certain additional tracks across B street in San Diego, as shown on the tracing already referred to, for the purpose of conveniently operating its new passenger depot. After a public hearing, the Commission on January 20, 1915, made its order granting the Santa Fe's request, on condition that the City of San Diego, through its common council, should suspend traffic over B street between Arctic street and Atlantic street for a period of three years. It is stated in the opinion that if at the end of three years it should appear desirable to resume traffic at this point, either at grade or by a separation of grades, the City of San Diego can again bring the matter before the Commission. It should be noted that the petition merely asked for an order

authorizing the construction of the additional tracks across B street but that the Commission, in addition to granting the request, safeguarded the operation of the Santa Fe in the manner indicated. The city council of San Diego promptly passed an ordinance as suggested by this Commission and has done its full part to make the Commission's permission effective. Attention should also be drawn to the fact that persons owning property along B street protested before the city council and before this Commission against the closing of B street and that at the present hearing their counsel stated that if any attempt is made to close B street permanently these property owners will resist such action, by years of litigation, if necessary, unless they have first been compensated for the damages which they claim they would suffer from such closing. Both B street property owners and the city of San Diego were entirely satisfied with the Commission's order, and the Commission supposed the matter had been closed. In view of all the facts, the Commission was of the opinion and is still convinced that the solution, contained in its order was a sensible, practical solution, calculated to secure the opening of the new passenger depot without litigation or delay.

The Santa Fe now urges that the city council had no power to suspend traffic along B street without permanently closing the street and has filed a memorandum of authorities to this effect. The city attorney of San Diego insists with equal earnestness that the city in enacting the ordinance, acted clearly within its jurisdiction. These matters are entirely irrelevant in the present proceeding. The present proceeding is in no way based on the Commission's permission granted in the B street matter. The Commission clearly has power to compel the Santa Fe to give adequate and efficient service and to provide proper station and depot facilities. The Commission has power to this end to compel the Santa Fe to do what is required by public convenience and necessity, including the construction of tracks across B street.

Every one agrees that some protection must be provided for the B street crossing. Three methods of according this protection have been suggested. One method is to close B street permanently now, with the possibility of a viaduct or subway later, if required by traffic conditions. Another method is to leave B street open to traffic, but to compel the Santa Fe to install crossing gates or similar devices and a watchman if necessary. Still another method is the one suggested by the Commission, being a suspension of traffic for three years, at the end of which time all parties will have sufficient additional information so as to make it entirely reasonable to expect at that time a permanent solution satisfactory to all sides. The Commission's solution was reached in a hear-

ing brought on by the Santa Fe itself and after a full and fair opportunity to the Santa Fe to present its views. The Santa Fe's present position, that it will not proceed unless its particular plan is adopted and unless it is accorded exactly what it demands without reference to any other solution, or the views of any one else, no matter how carefully and fairly these views may have been formulated, is entirely inconsistent with the Santa Fe's attitude in matters heretofore pending before this Commission and entirely at variance with the broad gauge policy which it was generally supposed that the Santa Fe was pursuing.

It must be distinctly borne in mind that none of the three solutions of the B street situation hereinbefore outlined can be said to be the one exclusively required for the public convenience and necessity at the present time. If the Commission's suggestion made in its order in the B street matter stands, the problem is solved for three years and until the further order of the Commission. If the Santa Fe is correct in its contention that the ordinance enacted by the common council of San Diego for its protection is void, on which question we express no opinion for the reason that it is immaterial in this proceeding, and it becomes necessary to adopt other measures to protect this crossing, the Commission can promptly direct the Santa Fe to install the necessary crossing gates or other appropriate safety devices and to employ a watchman if necessary.

In order that there be no question in the matter, the order will grant to the Santa Fe authority to lay its tracks across B street to the full extent necessary to comply with the order.

Of course, if the city council desires to close B street this Commission can have no objection to such action. Such action would be entirely consistent with the order herein. The point on which the Commission insists, in the public interest, is that the new passenger depot be opened immediately, whichever one of the three methods of handling the B street problem is adopted now or hereafter.

I find as a fact that the Santa Fe's present operated passenger station and depot facilities at San Diego are inadequate, insufficient and unreasonable and that the Santa Fe is not giving in respect thereto the service to which the traveling public is reasonably entitled. I further find as a fact that public convenience and necessity require the completion by the Santa Fe of the plan shown on said Exhibit "A" attached to the petition in Application No. 1461, in so far as said plan relates to passenger service and particularly the opening and operation of the Santa Fe's new passenger depot and the construction of the necessary track layout in connection therewith, as indicated on said Exhibit "A". I further find as a fact that 10 days is a reasonable time for the opening and operation of said new passenger depot and the construction of the

tracks necessary to reach the same, and that four weeks is a reasonable time for the removal of the existing operated passenger depot and the full completion and operation of the plan shown on said Exhibit "A" in so far as it relates to passenger service. I further find that the Santa Fe should be directed to proceed as indicated in the order herein,

I submit the following form of order:

ORDER.

The Railroad Commission having on its own motion instituted the above entitled proceeding and a public hearing having been held therein and the case having been submitted and being now ready for decision,

The Railroad Commission hereby makes as a finding of fact each statement and finding contained in the opinion which precedes this order. Basing its order on each and all of said findings,

It is hereby ordered as follows:

1. The Atchison, Topeka and Santa Fe Railway Company is hereby ordered, within ten days, to open and operate its new passenger depot at San Diego and to construct and operate the tracks necessary for this purpose as shown on the tracing attached to the petition in Application No. 1461 and marked Exhibit "A," which tracing in so far as necessary is hereby made for all purposes a part of this order.

2. The Atchison, Topeka and Santa Fe Railway Company is hereby ordered, within four weeks, to remove its existing operated passenger depot at San Diego and to complete and operate the track layout and facilities necessary for the execution and operation of the plan shown on said tracing marked "Exhibit A," in so far as the same relates to passenger service.

3. The Atchison, Topeka and Santa Fe Railway Company is hereby granted authority to construct its tracks across B street in San Diego at its own expense to the full extent necessary for complete compliance with each provision of this order, subject to the usual reservation to the Railroad Commission of the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem just and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

4. This order shall become effective ten days after date.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of March, 1915.

DECISION No. 2187.

IN THE MATTER OF THE APPLICATION OF ORO ELECTRIC CORPORATION FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION AND OPERATION OF LINES FOR ELECTRIC SERVICE TO NATOMAS CONSOLIDATED OF CALIFORNIA IN THAT PORTION OF SACRAMENTO COUNTY LYING NORTHERLY OF AN EAST AND WEST LINE DRAWN IMMEDIATELY SOUTH OF THE CITY OF SACRAMENTO.

Application No. 514.

Decided March 1, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Oro Electric Corporation having, on February 26, 1915, made written application for the dismissal of the above entitled proceeding.

It is hereby ordered that the same be, and it is hereby, dismissed without prejudice.

Dated at San Francisco, California, this 1st day of March, 1915.

DECISION No. 2188.

IN THE MATTER OF THE APPLICATION OF SAUSALITO INCLINE STREET RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND OF ALLEN H. VANCE TO TRANSFER STREET RAILWAY FRANCHISE TO SAUSALITO INCLINE STREET RAILWAY.

Application No. 1268.

Decided March 1, 1915.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission having, on September 23, 1914, made an order in this proceeding authorizing applicant to issue \$15,500 par value of preferred or common capital stock upon certain conditions, one of which was that the stock should be issued so as to net applicant the par value thereof; and it now appearing that applicant desires authority to issue this stock so as to net not less than 92½ per cent of the par value thereof, and it appearing to the Commission that this request is reasonable and that it should be granted,

It is hereby ordered that the order heretofore made in this proceeding on September 23, 1914, be and the same is hereby amended so as to authorize applicant to issue the \$15,500 par value of its preferred or

common capital stock therein authorized to be issued so as to net applicant not less than 92½ per cent of the par value thereof, instead of the entire par value thereof as now provided in said order; provided, however, that in all other respects the stock shall be issued in accordance with the terms and conditions of said order of September 23, 1914.

Dated at San Francisco, California, this 1st day of March, 1915.

DECISION No. 2189.

IN THE MATTER OF THE APPLICATION OF WILLIAM WILLIS TO SELL
A WATER SYSTEM TO A. Z. HOLMES AND BLANCHE HOLMES.

Application No. 1513.

Decided March 1, 1915.

REPORT OF THE COMMISSION.

William Willis having applied to this Commission for authority to sell to A. Z. Holmes and Blanche Holmes a certain public utility water system located on Lot 73, Tract 1468, recorded in Book 20, pages 50 and 51 of Maps, Records of Los Angeles County, said system consisting of

a well 12 inches in diameter, 138 feet deep; 4-inch cylinder draw water pump, 1½-horsepower; buckeye jack, 4 horsepower; iron V engine, 10,000-gallon tank; 2-inch pipe line from Seventh street to Fifth street, with ¾-inch outlet, 1½-inch pipe line laterals.

for the sum of \$700.00, and the Commission being of the opinion that this application should be granted,

It is hereby ordered that this application be, and it is hereby granted on the condition that the consideration given for the property herein authorized to be transferred shall not be taken before this Commission, or any other public body, as representing for rate fixing or other purposes the value of the property transferred.

Dated at San Francisco, California, this 1st day of March, 1915.

DECISION No. 2190.

IN THE MATTER OF THE APPLICATION OF EXCELSIOR WATER AND MINING COMPANY FOR AN ORDER AUTHORIZING AND PERMITTING A CHANGE IN THE RATES AND CHARGES FOR WATER FURNISHED AND SERVICES RENDERED BY IT IN THE COUNTIES OF NEVADA AND YUBA, STATE OF CALIFORNIA.

Application No. 934.

Decided March 3, 1915.

Irrigation rates heretofore established in the above entitled matter not being satisfactory to either the consumers or the utility, a stipulation has been entered into between such parties agreeing to the establishment of a rate of 10 cents per miner's inch per day of twenty-four hours, which rate Excelsior Water and Mining Company is authorized to establish for the irrigating seasons of 1915 and 1916.

Fred Scarle and Geo. S. Nickerson, for Applicant.
W. H. Carlin, for Protestants.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

SUPPLEMENTAL OPINION.

The Excelsior Water and Mining Company made application early in the year 1914 for authority to establish a charge for water delivered for irrigation purposes, based upon the amount of use, and to include a certain minimum annual charge per acre.

The Commission conducted a hearing and caused investigations to be made to determine the value of the company's property and the cost of operating the same, and established the following rates:

A minimum charge per acre per annum of \$4.00 for the use of sufficient water to cover one acre of land one foot in depth, equal to twenty miner's inch days, and for less than one acre a proportionate rate.

For the use of additional water at the rate of \$1.25 for ten miner's inch days, or sufficient water to cover one acre six inches in depth.

(The words "miner's inch" wherever used herein, mean one fortieth of a second foot of water, or a flow of water equal to 2,160 cubic feet in every twenty-four hours.)

This minimum charge to be due and payable on or before April 1st of each year, and the charge for excess amounts to be due and payable on or before November 1st of each year.

The opinion of the Commission, however, contained the following paragraph:

It is impossible with the very indefinite data available to state the amounts of water necessary for use in this particular community. Water use data in other communities where there is

better knowledge is not directly applicable here. Therefore, it seems to me that it is essential that during this coming season actual measurement of water be made in order that the data then available may be used as a guide to the Commission should the rate fixed be found impracticable.

The rate established, for the amount of water ordinarily used in foothill regions, is the lowest rate charged by any company in the vicinity, similarly situated and irrigating lands in part at least comparable with those covered by the Excelsior Water and Mining Company.

The rate formerly in effect was a flat rate per acre, and varied with the crop raised. It has come to the attention of the Commission that the consumers are very averse to the rate established in 1914, and now there has been filed with the Commission a stipulation signed by the attorneys representing respectively the consumers and the utility, agreeing to a rate of ten cents per inch, for a miner's inch, measured under six inch pressure above the center of the orifice, at the ditch or ditches of the company, this rate to apply during the years 1915 and 1916, and for a further two years' period, provided that an additional acreage for irrigation, to be agreed upon, shall demand water.

Further, it is stipulated that the company and its consumers shall each bear half the expense of an irrigation engineer whose duty it shall be to determine the use and duty of water and methods of irrigation during the year 1915.

The rate is essentially a lower rate than that established by the Commission and provides for no minimum payment. Therefore, if the utility corporation is agreed, I can see no reason for denying the request. However, the stipulation does not state the length of time that a miner's inch shall flow for the ten cent rate, and the miner's inch measure is not stated in terms of the statute amount.

The stipulation in regard to a further extension of the time during which this rate shall obtain, is not a matter which the Commission should consider at this time, nor does the agreement to employ an expert require the approval of the Commission.

I submit the following supplemental order:

SUPPLEMENTAL ORDER.

The Excelsior Water and Mining Company of Smartsville, and the Yuba and Nevada Water Consumers Association, representing the consumers of this utility company, having by stipulation agreed to a lower rate than that now in effect for irrigation water furnished and services rendered by it in the counties of Nevada and Yuba, State of California,

It is hereby ordered by the Railroad Commission of the State of California that the Excelsior Water and Mining Company be and it

hereby is authorized to establish the following charges for water for irrigation purposes for 1915 and 1916:

For all water delivered at the ditch or ditches of the company, ten cents per miner's inch per day of twenty-four hours or the equivalent thereof in amount, one miner's inch per minute being equal to one and one half cubic feet.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of March, 1915.

DECISION No. 2191.

IN THE MATTER OF THE APPLICATION OF THE CITY OF REDONDO BEACH, CALIFORNIA, FOR AN ORDER FIXING THE VALUE OF CERTAIN PROPERTY OF THE REDONDO WATER COMPANY, A PUBLIC UTILITY CORPORATION.

Application No. 1398.

Decided March 3, 1915.

City of Redondo Beach, desiring to purchase the property of the Redondo Water Company, applies to the Commission to fix the proper compensation to be paid for such system which after valuation and review of the development of such water company is fixed at \$135,000.00.

Frank L. Perry, for Applicant.

S. M. Haskins, for the Water Company.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

This application was filed by the city of Redondo Beach under sections 47 and 70 of the Public Utilities Act, providing for the fixing of a just compensation to be paid to utilities whose property is sought to be purchased by a municipality.

Applicant has specified the property, whose value it desires fixed, in the text of its application, amended at the time of the hearing so that the Commission has before it the exact inventory of the items to be appraised.

This water system originated under the ownership of the Redondo Beach Company in 1888, at which time the Redondo townsite was placed upon the market. Ten years later, by reorganization, the water system passed to the Redondo Improvement Company which continued to operate the utility until the incorporation of the present company, on July 3, 1908.

All of the structures and machinery of the original installation have long since been discarded or sold. The present system includes two pumping plants and three wells and about thirty miles of pipe lines to which are attached some 1,218 services. There are the usual buildings, reservoir, and sundry necessary equipment.

The Commission's hydraulic engineers presented their valuation at the hearing held in the city of Redondo Beach on February 3, 1915, at which time the company also presented a valuation by their engineers, Lippincott and Bowen.

There was very little difference as to the value of the physical property, but the main difference occurred in the estimate of what is known as overhead expense. The engineer for the Commission presented and explained his estimate, which averaged about 12 per cent as compared with the 30 per cent used by Messrs. Lippincott and Bowen upon items estimated reproduced, and 17½ per cent upon items whose full cost had been carefully kept.

The records of the company were found to be in excellent condition and it was possible to review historically the steps in the development of the present system. Our engineers were careful to fully investigate the details of development, and the amount which I shall recommend to the Commission as the just compensation in this case, has taken recognition of certain expenses which occurred but proved to be a loss.

The depreciation has been computed, after consultation between the engineers of the Commission and those of the company, upon what is known as the straight line basis. This contemplates the depreciation of any item of property in the direct ratio of its age to its probable useful life. The owner of a structure whose useful life is twenty years, having used it five years, has already enjoyed the period of lowest cost of upkeep and a buyer, such as the city of Redondo Beach, when taking over the structure has to meet with an increasing amount of depreciation each successive year, and for that reason is at a disadvantage if it is required to pay on a curve line basis when it assumes the ownership of the property.

Mr. Lippincott, for the company, has asked for \$3,000.00 for water rights, predicated this amount upon the value attached to a clause inserted in deeds by a predecessor of the water company. This engineer did not wish to state that the water, approximately one hundred miner's inches, was worth \$3,000.00, but that he desired to nominally recognize such a right at \$3,000.00. The reversion clause, by virtue of which the value is claimed, occurs in all deeds according to the map of Redondo townsite:

“The right of way over and through all lands delineated upon this map, is hereby reserved for all purposes appertaining to water rights, or sewer pipes that may be required by the grantors,

their successors or assigns; also reserving any and all artesian water that may at any time be developed on said land and not used thereon, * * * *".

In the case under consideration it was shown by testimony that water could be developed in the neighborhood in question on lands other than those upon which the supply is developed, the value of which we are now asked to determine. To my mind, this case, therefore, presents less difficulties than others where adjoining lands are not admittedly water bearing.

The property listed under the application, as amended, of the city of Redondo Beach, therefore, is as follows:

REAL ESTATE.

A portion of Block 24 of Redondo Townsite, comprising about 2.15 acres.
 Lots 11-15 inclusive-----Block 29-----Redondo Townsite
 Lots 17, 18, 35, 36-----Block 58-----Redondo Townsite
 Lots 7-12 inclusive-----Block 62-----Redondo Townsite
 Lots 1-11 inclusive-----Block 99-----Redondo Townsite
 Portion of Block 99 of Redondo Townsite comprising about 0.17 acres.

Structures and Equipment.

1 engineer's dwelling of 5 rooms.
 1 frame barn, 40x44.
 1 frame shop, 24x34.
 1 frame store room, 24x40.
 1 pump house of concrete, with addition.
 1 pump house of brick.
 3 wells of 16" diameter.
 2 pump pits.
 1 tunnel between two of the wells.
 1 85 h. p. electrical motor.
 1 75 h. p. electrical motor.
 1 12"x16" Gould pump.
 1 14"x12" Gould pump.
 1 reservoir of approximately 1½ million gallons capacity.
 1 weir box.

Distributing System.

327 lineal feet of 1" galvanized pipe.
 179 lineal feet of 1½" standard screw pipe.
 68783 lineal feet of 2" standard screw pipe.
 18872 lineal feet of 4" standard screw pipe.
 25248 lineal feet of 6" standard screw pipe.
 7620 lineal feet of 4" cast iron pipe.
 2893 lineal feet of 6" cast iron pipe.
 6970 lineal feet of 8" cast iron pipe.
 395 lineal feet of 10" cast iron pipe.
 1005 lineal feet of 16" cast iron pipe.
 5740 lineal feet of 8" converse lockjoint pipe.
 280 lineal feet of 4" riveted steel pipe No. 14.
 5530 lineal feet of 6" riveted steel pipe No. 14.
 740 lineal feet of 9" riveted steel pipe No. 14.
 1370 lineal feet of 10" riveted steel pipe No. 12.
 1450 lineal feet of 15" riveted steel pipe No. 12.
 8917 lineal feet of 2" standard screw pipe, second hand.
 1412 lineal feet of 6" standard screw pipe, second hand.
 8873 lineal feet of 4" O. D. casing, second hand.
 All valves in pipe lines.
 778—1" services.
 352—¾" services.
 33—1" services.
 1—1½" service.
 49—2" services.
 4—4" services.
 1—6" service.
 105—2" standpipes and valves.

13—1" standpipes and valves.
 2— $\frac{1}{2}$ " meters.
 31— $\frac{3}{4}$ " meters.
 3— $\frac{3}{4}$ " meters.
 17—1" meters.
 1— $1\frac{1}{2}$ " meter.
 10—2" meters.
 1—4" meter.

All material on hand January 1, 1915.

All operating equipment.

All office furniture, fixtures, maps, records.

All other property owned by the Redondo Water Company in the city of Redondo Beach on January 1, 1915, and used and useful in the conduct of its water utility business.

The following table shows the results reported by the various engineers:

| Item | Commission's engineers | Elphinstone and Bowen |
|------------------------------|---------------------------|--------------------------|
| Real estate and water rights | \$9,225 00 | \$10,800 00 |
| Buildings | 5,551 00 | 5,480 00 |
| Wells | 6,591 00 | 5,780 00 |
| Pump pits | 5,642 00 | 5,984 00 |
| Tunnel | 1,313 00 | 1,418 00 |
| Motors | 1,068 00 | 1,110 00 |
| Pumps | 9,964 00 | 10,894 00 |
| Reservoir | 7,791 00 | 8,332 00 |
| Weir box | 370 00 | 396 00 |
| Paving over ruins | 752 00 | 897 00 |
| Distribution system | 77,413 00 | 87,247 00 |
| Services | 5,722 00 | 6,965 00 |
| Hydrants | 1,227 00 | 1,331 00 |
| Meters | 1,536 00 | 1,813 00 |
| Material on hand | *500 00 | 2,334 00 |
| Operating equipment | *1,000 00 | 1,965 00 |
| Office furniture, etc. | *700 00 | 3,000 00 |
| Water rights | † | 3,490 00 |
| Organization expense | | 514 00 |
| Totals | \$127,170 00 | \$158,013 00 |

*Estimate.

†Included in real estate.

The Commission's engineers had estimated certain items of material and equipment and at the hearing, evidence was produced showing the exact amounts. I find it necessary, therefore, as stipulated, to add to the total of the Commission's engineers' figures as follows:

| Item | Estimated value | Actual cost |
|----------------------|--------------------|-------------------|
| Organization expense | | \$515 00 |
| Material on hand | \$500 00 | 1,983 32 |
| Operating equipment | 1,000 00 | 1,672 52 |
| Office equipment | 700 00 | 1,300 00 |
| Totals | \$2,200 00 | \$5,673 84 |
| Difference | 3,473 84 | |
| | \$5,673 84 | \$5,673 84 |

Adding the difference of \$3,473.84 to the \$127,170.00, I find the total of the physical property as valued by the Commission's engineers, to be \$130,644.00.

The water company, through its president, gave its opinion upon the going value of this utility as ten per cent of the valuation of the physical property, such value accruing from the rights to do business and its actual successful operation. When we stop to consider that this water system was laid out as part of a land scheme over twenty-five years ago, and were a modern system to be designed today it is probable that several changes in pipe sizes would be necessary, I fail to recognize now any additional value, inasmuch as the amount which the Commission's engineers have found has not been reduced on account of obsolescence.

It was stipulated at the hearing that the water company would be allowed to furnish the Commission and the city of Redondo at some subsequent date a determination of its development cost. Such a statement has been filed, showing, with interest at 8 per cent, an accumulated deficit since 1905 of \$73,216.00, basing cost of plant at \$179,407.00, which is approximately the reproduction cost new as found by the engineers Lippincott and Bowen. The Commission's engineers found approximately \$155,000.00 for the same cost. Compounding the difference of \$24,000.00 at 8 per cent for ten years amounts to \$51,804.00. By a careful analysis of their statement, I arrive at a point where it appears that the more that utility loses the more valuable it is, because there is no evidence but what a continued accumulating deficit will occur each year. It would, therefore, seem a wise move on the part of the utility to dispose of its property before accumulating further deficits. I shall, therefore, recommend no change in the amount of the proper compensation which I have found.

An independent computation has been made by the Commission's engineers based on their estimated cost new, interest allowed at 6 per cent and depreciation with a 4 per cent sinking fund and forty-year maturity which is the average life of all items. The surplus and deficits shift alternately from year to year and without interest the deficits actually are exceeded by the surplus. A strict determination of the actual conditions would require a careful inspection of the book entries which generally show items carried in operating account when they properly should have been included in capital.

Taking all of the evidence into consideration and allowing what I think is legitimate for intangibles and easements, I will find a value as a whole and not specifically enumerate any particular element, finding such value to be \$135,000.00

I submit the following findings:

FINDINGS.

City of Redondo Beach, a municipal corporation, having filed a petition with this Commission, setting forth the intention of said city to acquire, under eminent domain proceedings, the lands, property and rights of every character whatsoever of the certain named water company furnishing water to the inhabitants of said city of Redondo Beach and asking that this Commission fix and determine the just compensation which shall be paid by said city of Redondo Beach for such property and rights; and a hearing having been held, and being fully apprised in the premises, the Commission makes the following findings with respect to the water company involved:

REDONDO WATER COMPANY.

The property sought to be acquired belonging to this company is described as follows:

Parcel 1.—A portion of the unsubdivided part of block twenty-four (24), townsite of Redondo Beach, as per map recorded in book 39, page 1 *et seq.*, Miscellaneous Records of Los Angeles County, said portion being described as follows:

Beginning at the southeast corner of lot sixteen (16), said block twenty-four (24); thence southwesterly along the southerly line of lots sixteen (16) to twenty-three (23) inclusive, in said block twenty-four (24) three hundred forty-five and two tenths (345.2) feet, more or less, to the most southerly corner of said lot twenty-three (23); thence southeasterly along the northeasterly line of lots thirty-two (32) to forty-two (42) inclusive, in said block twenty-four (24), four hundred thirty-three (433) feet, more or less, to the most easterly corner of said lot forty-two (42); thence northeasterly in a direct line to the most southerly corner of lot five (5), said block twenty-four (24); thence northwesterly along the southwesterly line of lots five (5) to twelve (12) inclusive in said block twenty-four (24), three hundred seven and four-tenths (307.4) feet, more or less, to the point of beginning; also a strip of land of a uniform width of twenty (20) feet lying on the northeasterly side of and adjacent to lots forty-three (43) to forty-six (46) inclusive, in said block twenty-four (24) and extending from the tract of land above described to Amethyst street.

Parcel 2.—Lots eleven (11), twelve (12), thirteen (13), fourteen (14), and fifteen (15), block twenty-nine (29), said townsite of Redondo Beach.

Parcel 3.—Lots seventeen (17), eighteen (18), thirty-five (35) and thirty-six (36), block fifty-eight (58), said townsite of Redondo Beach.

Parcel 4.—Lots seven (7), eight (8), nine (9), ten (10), eleven (11), and twelve (12), block sixty-two (62), said townsite of Redondo Beach.

Parcel 5.—Lots one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10) and eleven (11), block ninety-nine (99), said townsite of Redondo Beach.

Parcel 6.—All that portion of lots twenty-five (25), twenty-six (26), twenty-seven (27), and twenty-eight (28), said block ninety-nine (99), described as follows: Beginning at a point in the northerly line of said lot twenty-five (25), one hundred forty (140) feet easterly from the northwest corner thereof; thence southerly on a line parallel with the westerly line of said lots twenty-five (25), twenty-six (26), twenty-seven (27) and twenty-eight (28); to a point in the southerly line of said lot twenty-eight (28); thence easterly along said southerly line of said lot twenty-eight (28); fifty (50) feet, more or less, to the southeast corner thereof; thence northerly along the easterly line of said lots twenty-eight (28), twenty-seven (27), twenty-six (26) and twenty-five (25), one hundred sixty-five and two tenths (165.2) feet, more or less to the northeast corner of said lot twenty-five (25); thence westerly along said northerly line of lot twenty-five (25), thirty-five (35) feet, more or less, to the point of beginning.

- 1 engineer's dwelling located on parcel No. 5.
- 1 frame barn located on parcel No. 5.
- 1 frame shop located on parcel No. 5.
- 1 frame store room located on parcel No. 5.
- 1 pump house with addition, located on parcel No. 5.
- 1 pump house located on parcel No. 5.
- 3 wells of 16" diameter, located on parcel No. 5.
- 2 pump pits located on parcel No. 5.
- 1 tunnel connecting two wells on parcel No. 5.
- 1 85 h. p. electric motor.
- 1 75 h. p. electric motor.
- 1 Gould pump, 12"x16", with accessories.
- 1 Gould pump, 14"x12", with accessories.
- 1 reservoir, 90"x112", located on parcel No. 4.
- 1 weir box located on parcel No. 4.

Distribution System.

- 327 lineal feet of 1" galvanized pipe.
- 179 lineal feet of 1½" standard screw pipe.
- 68783 lineal feet of 2" standard screw pipe.
- 18872 lineal feet of 4" standard screw pipe.
- 25248 lineal feet of 6" standard screw pipe.
- 7620 lineal feet of 4" cast iron pipe.
- 2893 lineal feet of 6" cast iron pipe.
- 6970 lineal feet of 8" cast iron pipe.
- 305 lineal feet of 10" cast iron pipe.
- 1005 lineal feet of 16" cast iron pipe.
- 5740 lineal feet of 8" converse lockjoint pipe.
- 380 lineal feet of 4" riveted steel pipe No. 14.
- 5520 lineal feet of 6" riveted steel pipe No. 14.
- 740 lineal feet of 9" riveted steel pipe No. 14.
- 1370 lineal feet of 10" riveted steel pipe No. 12.
- 1450 lineal feet of 15" riveted steel pipe No. 12.
- 8917 lineal feet of 2" standard screw pipe, second hand.
- 1412 lineal feet of 6" standard screw pipe, second hand.
- 8873 lineal feet of 4" O. D. casing, second hand.

All valves in pipe lines.
 778— $\frac{1}{2}$ " services.
 352— $\frac{3}{4}$ " services.
 33—1" services.
 1— $1\frac{1}{4}$ " services.
 49—2" services.
 4—4" services.
 1—6" service.
 105—2" standpipes and valves.
 13—1" standpipes and valves.
 2— $\frac{1}{2}$ " meters.
 31— $\frac{5}{8}$ " meters.
 3— $\frac{3}{4}$ " meters.
 17—1" meters.
 1— $1\frac{1}{4}$ " meter.
 10—2" meters.
 1—4" meter.

Miscellaneous.

All material on hand January 1, 1915.
 All operating equipment, automobile, tools, etc.
 All office furniture, fixtures, maps and records.
 All other property owned by the Redondo Water Company in the City of Redondo Beach on January 1, 1915, and used and useful in the conduct of its water utility business.

The Commission hereby finds as a fact that a fair compensation to be paid by the city of Redondo Beach for this property is the sum of \$135,000.00.

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, this 3d day of March, 1915.

DECISION No. 2192.

IN THE MATTER OF THE APPLICATION OF PLUMAS LIGHT AND POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF BONDS.

Application No. 1438.

Decided March 3, 1915.

Applicant applies for permission to issue bonds of the face value of \$52,000.00, to be sold at not less than \$0, proceeds to be used partly to reimburse treasury for additions heretofore made, the balance in the construction of a hydroelectric generating plant in connection with a recently leased water right, and it appearing that the title to such water rights is at present in litigation, and also that applicant's original plan of securing energy necessary in the conduct of its business from the Great Western Power Company should be given more consideration before issuing bonds for proposed developments, application denied without prejudice.

Philip Bancroft, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

In this application Plumas Light and Power Company, formerly Indian Valley Electric Light and Power Company, asks for authority to execute a mortgage or deed of trust, securing the payment of first mortgage twenty year 6 per cent gold bonds to the face value of \$100,000.00. Applicant further asks for authority to issue and sell bonds secured by said mortgage to the face value of \$52,000.00, at not less than 80 per cent of face value. Permission is also asked to apply the proceeds to be derived from the sale of said bonds to the following purposes:

| | |
|--|--------------------|
| To reimburse the treasury for notes paid ----- | \$4,088 78 |
| To reimburse treasury for expenditures for additions and betterments ----- | 297 80 |
| To pay outstanding notes ----- | 4,593 85 |
| To pay for cost of extensions, additions and betterments--- | 32,431 27 |
| Balance ----- | 188 30 |
| Total ----- | <u>\$41,000 60</u> |

By Decision No. 1629, dated June 29, 1914, this Commission dismissed Application No. 1136, as amended, wherein Indian Valley Electric Light and Power Company asked for an order permitting it to use part of the proceeds derived from the sale of bonds authorized by Decision No. 232, dated September 21, 1912, to pay for the cost of installing a hydroelectric plant near Greenville, Plumas County. The order of September 21, 1912, as extended, expired June 30, 1914.

The principal reason, as set forth in the opinion, for dismissing Application No. 1136, was the pending litigation between Round Valley Water Company, whose property applicant desires to lease, and E. L. Lindblom, relative to the title of certain water rights claimed by Round Valley Water Company. To quote from the opinion:

“The Commission manifestly can not authorize the issue of bonds based on a law suit where a substantial issue is involved in the suit.”

According to the evidence submitted in support of the present application, this litigation is still pending. Because of the former order of this Commission, I have examined the evidence submitted in this proceeding, with a view of ascertaining whether any material facts have been brought to this Commission's attention in this proceeding which would warrant the modification of its order dated June 29, 1914.

I find that on June 15, 1914, the Superior Court of Plumas County issued an order whereby the name of Indian Valley Electric Light and Power Company was changed to Plumas Light and Power Company.

By Decision No. 1247, dated July 3, 1914, this Commission authorized Plumas Light and Power Company to lease the property of Round Valley Water Company. It should be noted, however, that in its order the Commission called attention to the fact that it did not assume to pass upon the question of the title to the water stored or to be stored in Round Valley Water Company's reservoir. Therefore, that decision may not be advanced by applicant in this proceeding as a basis of a bond issue.

The district which Plumas Light and Power Company proposes to serve consists of Indian Valley, a mountain meadow of about seventeen square miles, situated at an elevation of three thousand five hundred feet. While a large number of gold and copper mines are located in the mountains surrounding this valley, few are being operated at present. Unless the mines are put in operation, the principal source of revenue of applicant will be consumers in the small towns of Greenville, Crescent Mills and Taylorsville.

The present electric properties of Plumas Light and Power Company are located near Greenville. These properties consist of one hundred and twenty acres of meadow and hill lands on which the present plant is located: a forty horsepower two hundred foot head hydroelectric plant; and a two thousand two hundred volt distribution system, approximately nine and one fourth miles in length, serving the towns of Greenville, Crescent Mills and the United States Indian school.

The engineering department of this Commission estimates the reproduction value of applicant's present plant as follows:

| | |
|--|--------------------|
| Lands | \$8,000 00 |
| Hydraulic plant development | 8,000 00 |
| Nine miles of distribution lines, at \$650.00..... | 5,850 00 |
| Transformers and meters..... | 1,800 00 |
| Engineering, superintendence, etc..... | 2,200 00 |
| Total | \$25,850 00 |

The present value of the plant is estimated not to exceed \$21,000.00.

Applicant has eighty-four consumers. Its revenue for the calendar year 1914 averaged approximately \$226.00 per month. Its operating expenses were about equal to the revenue. Because of the lack of generating capacity, applicant has been able to operate its plant only during part of each day.

Applicant now proposes to install a four hundred horsepower hydroelectric plant with an effective head of six hundred and ninety feet. The ultimate development contemplated is an eight hundred horsepower plant under a seven hundred and ninety-seven foot head. In

installing this plant, applicant intends to use the water stored in the Round Valley Water Company's reservoir. This reservoir, located at an elevation of four thousand five hundred feet, has a maximum area of four hundred and twenty acres and a storage capacity of three thousand five hundred acre feet.

Applicant estimates, as shown in Exhibit "A," that the cost of installing this four hundred and forty horsepower hydroelectric plant will be approximately \$32,431.27. The engineering department of this Commission estimates the cost of installation at \$33,825.00, of which \$21,750.00 represents the cost of the production system and \$12,075.00 the cost of the distribution system.

In application No. 1136, as originally filed, applicant contemplated the construction of a transmission line from Greenville to Big Meadows, where Great Western Power Company would supply applicant with current generated at its Butte Creek plant. After Mr. Bidwell of Round Valley Water Company had his attention called to the plan of Plumas Light and Power Company relative to the construction of a transmission line, he at once entered into negotiations to lease his Round Valley reservoir to applicant. The officers of the company, therefore, abandoned the Great Western project, and since then have devoted their attention to the installation of the hydroelectric plant, to which reference has heretofore been made.

There are two elements in this general situation which appear to render it unwise to authorize at this time the bond issue as applied for. The first difficulty is the pending litigation over the water rights claimed by Round Valley Water Company. The lease of Plumas Light and Power Company of these properties gives it the option of purchase, but I believe it of doubtful wisdom for this applicant to proceed with the construction of a hydroelectric plant with titles in controversy, as in this instance, and particularly when we are informed that a decision may soon be expected in this matter. The second element in this situation to which I have referred, relates to the determination of which is the more feasible of two plans for the Plumas Light and Power Company to pursue. It may, as it here proposes, construct its own hydroelectric plant and serve the territory which it has mapped out for itself. It may be possible also for this company to construct a transmission line from Greenville to Big Meadows, as it proposed in Application No. 1136, to connect with Great Western Power Company. From the evidence at hand, I am not satisfied that the plan herein proposed is the more practical and beneficial from all points of view.

The territory embraced within the scope of this applicant's proposed operations is entitled to good service at fair rates. At the present time, I find that the top lighting rates in this territory are as follows:

Minimum rate-----\$1.50 per month
 If monthly consumption is less than 79 K.W.H., rate is 15 cents
 per K.W.H.
 If monthly consumption is over 80 and less than 129 K.W.H., rate
 is 13 cents per K.W.H.
 If monthly consumption is over 130 and less than 189 K.W.H., rate
 is 12 cents per K.W.H.
 If monthly consumption is over 190 and less than 244 K.W.H., rate
 is 11 cents per K.W.H.

I suggest to the applicant that it give earnest consideration to the various methods of meeting the problem before it, and that after such general study it again apply to the Commission for authority to issue its securities. It may be when the litigation over the water rights, heretofore referred to, has been settled that the company will be able to make more satisfactory arrangements for the construction of its proposed hydroelectric plant. For the present, however, I believe this application should be denied without prejudice. Accordingly, I recommend the following form of order:

ORDER.

Plumas Light and Power Company, having applied to this Commission, as set forth in the foregoing opinion, for authority to issue \$52,000.00 of its 6 per cent twenty year bonds, and a hearing having been held, and it appearing, for the reasons as set forth in the foregoing opinion, that said application should be denied,

It is hereby ordered that the same be and is hereby denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of March, 1915.

DECISION No. 2193.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES RAILWAY CORPORATION AND CITY RAILWAY COMPANY OF LOS ANGELES TO SELL AND CONVEY ALL OF THEIR PROPERTY TO THE LOS ANGELES RAILWAY, AND OF THE LOS ANGELES RAILWAY TO PURCHASE SAID PROPERTIES AND, IN ORDER TO EFFECT SUCH SALE AND PURCHASE, TO ISSUE AND EXCHANGE ITS BONDS TO THE PRINCIPAL AMOUNT OF TWENTY-THREE MILLION FIVE HUNDRED AND FORTY-FOUR THOUSAND DOLLARS FOR THE PURPOSE OF ACQUIRING AND RETIRING THE BONDS OF THE VENDOR COMPANIES AND ALL UNDERLYING BONDS, AND TO ISSUE AND EXCHANGE ITS CAPITAL STOCK OF THE PAR VALUE OF TWENTY MILLION DOLLARS FOR THE OUTSTANDING STOCK OF THE VENDOR COMPANIES OF THE PAR VALUE OF TWENTY-FIVE MILLION DOLLARS.

Application No. 894.

Decided March 3, 1915.

The reorganization plan as submitted by applicants provides for the transfer of the Los Angeles Railway Corporation and the City Railway Company of Los Angeles to The Los Angeles Railway and the issuance by the latter company of its capital stock of the par value of \$20,000,000.00 to be exchanged for \$25,000,000.00 par value of stock of the companies to be taken over, to execute a mortgage of its properties and to issue bonds thereunder of the face value of \$23,544,000.00 to be exchanged for bonds of the vendor companies; in connection with which applicants submit an estimate of the reproduction cost of the properties to be transferred of \$26,030,865.00 and a present value as of December 31, 1913, of \$24,288,406.00. A valuation submitted by the Commission's engineering department shows a reproduction value of \$22,332,430.00 and a depreciated reproduction value of \$19,747,767.00.

After review of the organization and development of the various companies, the consolidations of which are represented by the companies at present proposed to be transferred, it appeared that the books of the former companies had been destroyed, in explanation of which action the officials state that in their belief the books were of no further use. Considering a large block of bonds which were issued in return for a number of sums of money in varying amounts advanced to these companies, if such books were available to give the actual amounts realized thereon it would aid materially in apportioning to them an equitable value in the proposed reorganization plan or permit an exchange for stock, thereby leaving outstanding bonds in a more equitable proportion to the actual value of the property, securing to applicant more advantageous conditions for future financing.

Taking into consideration the valuations submitted, application denied, without prejudice to its renewal under modified conditions.

Gibson, Dunn & Crutcher and S. M. Haskins, for Applicants.

Albert Lee Stephens and Howard Robertson, for the City of Los Angeles.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application involving the transfer and sale of the property of Los Angeles Railway Corporation and City Railway Company of

Los Angeles to The Los Angeles Railway. To carry out the transaction, The Los Angeles Railway requests authority:

(1) To issue its common capital stock to the par value of \$20,000,000.00 in exchange for \$20,000,000.00 of the capital stock of Los Angeles Railway Corporation and \$5,000,000.00 of the capital stock of City Railway Company of Los Angeles;

(2) To execute a mortgage of its properties; and,

(3) To issue its bonds to the face value of \$23,544,000.00, to be exchanged for bonds of Los Angeles Railway Corporation and of City Railway Company of Los Angeles, or bonds assumed by these companies and which are now outstanding.

At the initial hearing of this application, held January 9, 1914, The Los Angeles Railway presented an estimate of the reproduction cost as of December 1, 1913, of the properties it desired to acquire in the sum of \$26,030,865.00, and the reproduction cost less depreciation in the sum of \$24,288,406.00. The city of Los Angeles, having been granted permission to intervene, submitted an appraisal alleging the reproduction cost of the same property as of January 1, 1913, to be \$19,762,389.00, and the reproduction cost less depreciation to be \$14,782,112.00. The difference between the valuation submitted by the company and that submitted by the city was so great that reconciliation was impossible. The Commission thereupon concluded to have its engineering department make an independent valuation. This work was completed May 1, 1914. The valuation prepared by the Commission's engineering department was submitted as evidence at the hearing held May 5, 1914. Representatives of the applicants asked for further time to check the figures submitted by the Commission's engineers.

After giving consideration to the evidence submitted at the hearing held May 5, and to the contentions of the applicants and the city of Los Angeles, the engineering department of this Commission submitted in evidence a supplemental report at a subsequent hearing held August 21, 1914. In this report, the reproduction value was estimated at \$22,332,430.00 and the depreciated reproduction value at \$19,747,767.00.

Los Angeles Railway Corporation was organized November 7, 1910, with an authorized capital stock of \$20,000,000.00, divided into 200,000 shares of the par value of \$100.00 each. It was the successor to the Los Angeles Railway Company.

In the annual report filed with this Commission for the year ended June 30, 1914, Los Angeles Railway Corporation reported as owning and operating the following mileage:

Mileage of Road Operated (all tracks).

| Line in use | Line owned | Line operated under contract, etc. | Joint ownership | Total mileage operated | New line constructed during year |
|----------------------------------|------------|------------------------------------|-----------------|------------------------|----------------------------------|
| Miles of single track..... | 165.01 | 13.97 | 5.21 | 184.19 | 5.76 |
| Miles of second track..... | 157.83 | 13.96 | 5.20 | 176.99 | 6.80 |
| Miles of sidings and turnouts... | 4.43 | .05 | | 4.48 | .05 |
| Yards and carhouses..... | 13.28 | 6.88 | | 20.16 | .96 |
| Total mileage | 340.55 | 34.86 | 10.41 | 385.82 | 13.57 |

The mileage operated under contract shown in the above table is owned by City Railway Company of Los Angeles. Pacific Electric Railway Company has an interest in the mileage reported under joint ownership.

The history and growth of this street railway system reveals frequent consolidations and reorganizations. The Los Angeles Cable Railway Company was organized early in 1887 and took over the properties of the City Railway, the Central Street Railroad and the East and West Los Angeles Railroad, comprising in all about 25 miles of track.

The promoters were Messrs. J. F. Crank and Charles Forman. This company began extension work in 1889, but found that it had insufficient funds to proceed with the work at hand. The promoters succeeded in interesting Mr. C. B. Holmes of Chicago in the enterprise, who took over the properties of the Los Angeles Cable Railway Company and organized the Pacific Railway Company. Though this company constructed 21.2 miles of cable lines, it did not meet with financial success. In 1893 the cable railway lines operating under the name of the Pacific Railway Company were purchased under foreclosure sale by the Los Angeles Consolidated Electric Railway Company, organized in 1890. This Company also acquired the Los Angeles and Vernon Street Railway, organized in 1887. On March 20, 1895, the bondholders of the Los Angeles Consolidated Electric Railway Company, after the company defaulted in interest payment, reorganized the property under the name of Los Angeles Railway Company.

In 1898 Mr. H. E. Huntington began an active interest in the street railway situation in Los Angeles. On January 17, 1899, he reorganized the Los Angeles Railway Company into which he consolidated the Main Street and Agricultural Park Railway, organized November 27, 1874, and the San Pedro Street Railway Company.

At the time the Los Angeles Railway Corporation was formed, November 21, 1910, it took over the property of the Los Angeles Railway Company, portions of the Los Angeles and Redondo Railway Company, portions of the Pacific Electric Railway Company, the Los Angeles Interurban, and the Los Angeles Traction Company.

City Railway Company of Los Angeles was organized December 1, 1910, for the purpose of financing certain new construction and extensions.

The lines constructed or to be constructed by City Railway Company of Los Angeles and the rolling stock acquired by it, or to be acquired by it, are operated or to be operated by Los Angeles Railway Corporation under a lease dated August 25, 1911. The lease is for a term of years beginning December 8, 1910, and ending February 1, 1941.

By the terms of the lease, Los Angeles Railway Corporation is under obligation to keep the property of City Railway Company of Los Angeles in good repair; to pay all operating expenses; all licenses, taxes or assessments levied upon the property of City Railway Company of Los Angeles; all interest and other fixed charges, including all sums required to be provided as a sinking fund for the purpose of paying off the principal of the bonds of City Railway Company of Los Angeles and to keep full insured all of the personal property, buildings, structures, and appliances of every kind for the benefit of City Railway Company of Los Angeles.

The lease or agreement provides further that Los Angeles Railway Corporation shall be entitled to receive any and all rents, issues, profits, tolls, receipts of any and every kind, to which City Railway Company of Los Angeles would be entitled had the lease not been executed.

Los Angeles Railway Corporation has an authorized stock issue of \$20,000,000.00, divided into 200,000 shares of the par value of \$100.00 each. All of the stock is outstanding.

City Railway Company of Los Angeles has an authorized stock issue of \$5,000,000.00; divided into 50,000 shares of the par value of \$100.00 each. All of the company's stock is outstanding.

The Los Angeles Railway has an authorized stock issue of \$20,000,000.00, divided into 200,000 shares of the par value of \$100.00 each.

The evidence submitted in connection with this application shows that Mr. H. E. Huntington owns all of the stock, except enough to qualify directors, of City Railway Company of Los Angeles and Los Angeles Railway Corporation and that he proposes to exchange these shares for all of the stock of the Los Angeles Railway, except such shares as may be necessary to qualify the directors.

Reports submitted to this Commission show that Los Angeles Railway Corporation has paid dividends as follows:

| | |
|---|----------------|
| Year ending June 30, 1912, 2 per cent..... | \$400,000 00 |
| Year ending June 30, 1913, 4 per cent..... | 800,000 00 |
| Year ending June 30, 1914, 1½ per cent..... | 300,000 00 |
| Total | \$1,500,000 00 |

No dividend has been paid by City Railway Company of Los Angeles.

Mr. W. E. Dunn, vice-president of Los Angeles Railway Corporation, testified that no dividend had ever been paid in cash; that the company, from time to time, made advances to the City Railway Company of Los Angeles and took that company's bonds in payment for such advances. Thereafter when Los Angeles Railway Corporation declared a dividend, the bonds of City Railway Company of Los Angeles, rather than cash, were paid to those persons entitled to receive the dividend.

The bonded indebtedness of the Los Angeles Railway Corporation and City Railway Company of Los Angeles as reported in this application may be tabulated as follows:

Los Angeles Railway Corporation.

| Name of company issuing bonds | Date | | Interest | Authorized | Issued |
|---|-----------|-----------|----------|---------------|-----------------|
| | Issued | Matured | | | |
| Los Angeles Trac. Co..... | 5/1/1895 | 5/1/1915 | 6 | \$250,000 00 | \$250,000 00 |
| Los Angeles Trac. Co..... | 12/1/1898 | 12/1/1938 | 5 | 500,000 00 | 250,000 00 |
| Los Angeles Ry. Co..... | 10/1/1898 | 10/1/1938 | 5 | 5,000,000 00 | 5,000,000 00 |
| Los Angeles Ry. Corp.... | 12/1/1910 | 12/1/1940 | 5 | 20,000,000 00 | 14,500,000 00 |
| Total | | | | | \$20,000,000 00 |
| City Railway Company of Los Angeles..... | 2/1/1911 | 2/1/1941 | 5 | 5,000,000 00 | 3,544,000 00 |
| Total both companies | | | | | \$23,544,000 00 |

The deeds of trust securing the bond issues of the Los Angeles Traction Company, dated May 1, 1895, and December 1, 1898, make no provision for a sinking fund.

The deed of trust of the Los Angeles Railway Company securing the payment of the \$5,000,000.00 bond issue dated October 1, 1898, requires the company to pay to the Union Trust Company of San

Francisco, trustee, for the purpose of the sinking fund the following amounts :

| | |
|------------------------|--------------------|
| From 1903 to 1907----- | \$15,000 per annum |
| From 1908 to 1912----- | 20,000 per annum |
| From 1913 to 1917----- | 25,000 per annum |
| From 1918 to 1922----- | 30,000 per annum |
| From 1923 to 1927----- | 35,000 per annum |
| From 1928 to 1932----- | 40,000 per annum |
| From 1933 to 1937----- | 45,000 per annum |

The payments thus made to the trustee shall be applied to the redemption of bonds at not more than 105 or invested at the discretion of the board of directors of the railway company.

The deed of trust of the Los Angeles Railway Corporation dated November 21, 1910, and securing bonds to the amount of \$20,000,000.00, of which \$14,500,000.00 have been actually issued, requires the corporation to pay to the Los Angeles Trust and Savings Bank, trustee, for the purpose of the sinking fund \$10,000.00 per month, beginning January, 1911.

The moneys thus paid to the trustee shall be used for the redemption of bonds at not exceeding 105. If sufficient bonds can not be obtained, the money in the sinking fund shall be invested until such time as outstanding bonds may be purchased at the rate of not exceeding 105 and accrued interest.

The deed of trust of the City Railway Company of Los Angeles, dated February 1, 1911, securing the bond issue of \$5,000,000.00, of which \$3,544,000.00 are outstanding, requires the company to pay to the Los Angeles Trust and Savings Bank, trustee, beginning January, 1916, and annually thereafter, an amount equivalent to 2 per cent of the principal of the bonds then outstanding. The money thus paid to the trustee shall be used for the purpose of redeeming bonds at not more than 105, and if no bonds are offered, it shall be invested by the trustee.

The deed of trust of the Los Angeles Railway to the Los Angeles Trust and Savings Bank, dated February 1, 1914, for the execution of which authority is herein requested, provides for the issuance of bonds to the face value of \$50,000,000.00. The bonds are to be dated November 1, 1914, and to mature February 1, 1941. They are to be known as "first and refunding mortgage sinking gold bonds of The Los Angeles Railway." They are to be issued in three series—"A," "B" and "C," being of the denomination of \$1,000.00, \$500.00 and \$100.00, respectively.

Before the issuance of any bonds, the board of directors shall, by resolution, determine the rate of interest to be borne by such bonds, not exceeding 6 per cent, as well as the principal amount in which such bonds are to be issued.

Bonds to the face value of \$23,544,000.00 are reserved and appropriated to the purchase or refunding at or before maturity of bonds of the following companies:

- (a) \$14,500,000.00 Los Angeles Railway Corporation bonds, dated December 1, 1910, due December 1, 1940.
- (b) \$3,544,000.00 City Railway Company of Los Angeles bonds, dated February 1, 1911, due February 1, 1941.
- (c) \$5,000,000.00 Los Angeles Railway Company bonds, dated January 17, 1899, due October 1, 1938.
- (d) \$250,000.00 Los Angeles Traction Company bonds, dated May 1, 1895, due May 1, 1915.
- (e) \$250,000.00 Los Angeles Traction Company bonds, dated December 1, 1898, due December 1, 1938.

Bonds of the face value of \$26,456,000.00 may be certified and delivered by the trustee upon the written order of the corporation to an amount or amounts in par value not exceeding in the aggregate 9 per cent of the actual and reasonable cash expenditures by the corporation for the permanent betterments and extensions of and additions to its railway lines, property and equipment; provided that the net earnings of The Los Angeles Railway at the time of its application to the trustee for such certification of bonds shall have been for the period of twelve consecutive months ending not more than sixty days prior to such application, equal to at least one and one half times the total interest charge on the bonds then outstanding and the bonds for which application is then made.

The deed of trust requires The Los Angeles Railway to pay to the trustee in gold coin annually for the purpose of the sinking fund, an amount equal to three fourths of one per cent of the aggregate principal amount of bonds, certified, issued and then outstanding, including all bonds reserved for the retirement of underlying bonds or other secured indebtedness.

The money paid into the sinking fund shall be used by the trustee for the purchase and redemption of bonds issued under this deed of trust and secured thereby, at the highest income basis price at which they can be secured, provided that the premium paid thereon shall not exceed 5 per cent.

The deed of trust further provides that The Los Angeles Railway, by a vote of the majority of the board of directors, may redeem and pay on any interest payment date, any or all of its outstanding bonds by paying: (a) the principal; (b) the interest on the principal accrued to date of redemption; (c) a premium not exceeding 10 per cent if the bonds bear 6 per cent interest, or a premium not exceeding 5 per cent if the bonds bear less than 6 per cent.

As shown above, the bonds of The Los Angeles Railway are to be issued for a period of twenty-seven years. They thus mature before

the expiration of the company's principal and most profitable franchises.

Applicants are operating at present under approximately ninety-nine franchises, of which eighty were granted by the city of Los Angeles, eighteen by Los Angeles County and one by the city of Vernon. Owing to frequent changes in the names of streets, the duplication of grants over the same streets and the lapse of parts of certain franchises, the exact number of franchises in effect can not be definitely stated.

The remaining life of the franchises varies from a minimum of one and one half years to a maximum of forty-five years. About 75 per cent of the franchise mileage has a remaining life from twenty to forty years. The average life of franchises after January 1, 1914, is twenty-five and three fourths years.

The franchises cover the built up business districts of the city, while the privately owned rights of way of applicants are in outlying districts. The chief revenue producing franchises extend beyond the maturity of the bonds which the applicants propose to issue.

It is not necessary for the purposes of the present application to make a detailed summary of the various franchises.

In general the franchises provide that the grantees in constructing the tracks shall use a rail weighing not less than sixty pounds to the yard; that the most modern and up to date rail approved by the board of public works must be used; that the grantee must pave between the rails and two feet on either side with materials similar to that used by the city on the remaining portion of the street over which the franchise is granted; that the paving must be kept in good repair by the grantees; that the original paving and repair work must be done under the direction of the street superintendent of the board of public works; that if the grantees fail to comply with the order of the street superintendent of the board of public works within ten days after such order is communicated to the grantees, the city may make the necessary repairs and charge the cost thereof to the grantees; that the grantees must construct all the culverts and flumes for the free passage of water under the tracks of the railway; plans for such culverts, flumes, aqueducts, etc., to be approved by the city engineer or the board of public works; that the road bed and track are to conform with the official grade, and if for any reason the grade is changed, the tracks must be raised or lowered accordingly; that subject to the limitations of the statutes of the State of California, the grantees of the various franchises have been given the right to use any and all tracks in or across the streets to which their franchises apply, by paying their pro rata share of the cost and maintenance, provided further that if the gauge of the track already laid is not satisfactory a third rail may be laid.

The franchises under which Los Angeles Railway Corporation is operating at the present, permit it to carry no traffic except passengers and United States mail. The franchises provide that the company shall not charge more than five cents for a single trip. All, but a few of the very earliest franchises, provide that school children between the ages of six and eighteen shall be allowed to ride for half fares, provided they use the cars between 8 a.m. and 6 p.m., and provided further that they purchase tickets in lots of \$1.00.

The franchises now held by Los Angeles Railway Corporation and granted prior to 1905 were all granted for a definite period of time. Nothing is said in any of these as to the rights of the city to acquire the property of the grantee at the termination of the franchise. In 1905, the charter of the city of Los Angeles was amended, and the term of franchise limited to twenty-one years. At the same time, the city was given authority to terminate any franchise three years after its approval or subsequently, by the acquisition of the properties built under that franchise. The franchises granted subsequent to this amendment provide that the value of the property in case the city desires to acquire it, shall be ascertained by a board of arbitration composed of three members, one of whom shall be appointed by the grantee or assigns, one by the grantor and a third selected by the other two.

The charter amendment of 1913 provides that in ascertaining the value of any utility, no allowance shall be made for franchise value, good will, going concern, earning power, increased cost of reproduction, or increased value of right of way.

The franchises granted since 1905 provide that the grantee shall pay annually to the city on and after five years from the date of the franchises an amount equivalent to 2 per cent of the gross receipts.

The number of franchises to which this 2 per cent clause is applicable appears in the following statement:

- 38 (a) Clause effective at this date.
- 18 (b) Clause not effective at this date.
- 24 City franchises without 2 per cent gross revenue clause.
- 5 County franchises without 2 per cent gross revenue clause.
- 14 Spur and curve connections.
- 99 Total.

Los Angeles Railway Corporation has reported to this Commission assets and liabilities as follows:

Assets.

| | June 30, 1912 | June 30, 1913 | June 30, 1914 |
|--|-----------------|-----------------|-----------------|
| Cost of road..... | \$41,147,051 91 | \$11,870,322 96 | \$42,502,622 96 |
| Cost of equipment..... | 219,481 32 | 31,151 73 | 32,814 16 |
| General expenditures | 4,127 66 | 1,241 08 | 782 04 |
| Expenditures for road and equipment and general expenditures, leased line | 4,773 20 | 482 64 | 41 01 |
| Funded debt—owned | 1,170,000 00 | 489,000 00 | 60,000 00 |
| Cash and current assets: | | | |
| Cash | 47,231 90 | 29,647 93 | 25,328 26 |
| Bills receivable | 700 00 | | 1,000 00 |
| Accounts receivable | 52,984 69 | 96,744 35 | 57,566 80 |
| | 447,601 69 | 477,271 39 | 546,491 62 |
| | 1,136 75 | 1,370 25 | 976 00 |
| | 989 70 | 479 60 | 680 10 |
| | | | 1,000 00 |
| Total cash and current assets..... | \$550,644 73 | \$605,513 52 | \$633,042 78 |
| Sinking and other special funds..... | | 423,975 00 | 536,041 50 |
| Investment sinking funds..... | 313,750 00 | | |
| Car suspense account..... | | | 122,855 07 |
| Suspense account | | | 14,633 11 |
| Deficit | | 10,747 68 | |
| Grand totals | \$43,409,828 82 | \$43,432,434 61 | \$43,902,832 63 |

Liabilities.

| | | | |
|---|-----------------|-----------------|-----------------|
| Capital stock—common | \$20,000,000 00 | \$20,000,000 00 | \$20,000,000 00 |
| Funded debt | 20,000,000 00 | 20,000,000 00 | 20,000,000 00 |
| Current liabilities: | | | |
| Loans and notes payable..... | \$1,641,590 86 | \$1,263,825 00 | \$1,185,781 14 |
| Accounts payable | 350,824 81 | 237,254 53 | 261,437 76 |
| Treasurer's account | 141,863 42 | | 172,963 86 |
| Treasurer's overdraft | | 106,367 44 | |
| Employees' wages | 21,504 66 | 28,443 70 | |
| Employees' deposits | 2,650 00 | 2,600 00 | 2,525 00 |
| Employees' uniforms | 115 30 | 102 00 | 25 00 |
| Unpaid pay rolls..... | | 490 05 | 223 95 |
| Total current liabilities | \$2,158,549 05 | \$1,639,082 72 | \$1,622,896 71 |
| Interest on funded debt accrued and not yet due..... | 108,958 37 | 255,458 37 | 126,608 37 |
| Miscellaneous interest accrued and not yet due..... | 56,282 49 | 54,479 15 | 73,833 34 |
| Sinking fund—suspense | 350,341 67 | 499,708 34 | 649,022 00 |
| Glendale and Eagle Rock Railway..... | 3,291 67 | 4,491 13 | 5,441 13 |
| Suspense account | | 3,610 61 | |
| Reserves | 360,822 72 | 975,604 29 | 1,267,336 99 |
| Surplus | 371,583 39 | | 157,693 49 |
| Grand totals | \$43,409,828 82 | \$43,432,434 61 | \$43,902,832 63 |

Los Angeles Railway Corporation has reported earnings and expenses to this Commission as follows:

| Item | For fiscal year ended June 30, 1912 | For fiscal year ended June 30, 1913 | For fiscal year ended June 30, 1914 |
|--------------------------------------|---|---|---|
| Operating revenue | \$6,205,336 72 | \$6,821,756 39 | \$6,990,795 99 |
| Operating expenses | 4,228,340 33 | 4,870,605 80 | 4,821,272 00 |
| Net operating revenue..... | \$1,976,996 39 | \$1,951,150 59 | \$2,169,523 99 |
| Miscellaneous income | 263 90 | 61,055 56 | 12,204 17 |
| Gross income less operating expenses | \$1,977,260 29 | \$2,015,206 15 | \$2,181,728 16 |
| Deductions from income: | | | |
| Taxes | \$264,404 78 | \$286,352 78 | \$362,162 05 |
| Interest on funded debt..... | 1,002,500 00 | 1,002,500 00 | 1,002,500 00 |
| Interest on floating debt..... | 61,253 27 | 64,607 31 | 68,788 55 |
| Rent | 70,657 49 | 124,708 34 | 166,135 79 |
| Miscellaneous | | 365 16 | |
| Total deductions | \$1,401,815 54 | \$1,487,533 59 | \$1,599,586 39 |
| Net income | \$575,444 75 | \$536,672 56 | \$582,141 77 |
| Disposition of net income: | | | |
| Sinking fund | \$120,000 00 | \$120,000 00 | \$120,000 00 |
| Dividends | 400,000 00 | 800,000 00 | 300,000 00 |
| Surplus for year..... | \$55,444 75 | *\$389,327 41 | \$162,141 77 |
| Surplus beginning of year..... | \$316,486 80 | \$371,583 39 | *\$10,747 68 |
| Profit and loss adjustments: | | | |
| Credits | \$3,381 72 | \$1,017 35 | \$6,302 90 |
| Debits | 3,732 88 | 50 98 | 3 50 |
| Surplus close of year..... | \$371,583 39 | *\$10,747 68 | \$157,693 49 |

*Deficit.

The evidence shows that Los Angeles Railway Corporation has been maintaining its property in a high degree of efficiency. For the year ended June 30, 1912, the ratio of operating expenses to operating revenue was 68.14 per cent; for the fiscal year 1913 the ratio was 71.4 per cent, and for the fiscal year 1914 the ratio was 68.95 per cent. The reports of this company and the examination of its physical properties show that great care has been taken to make adequate and proper allowance for the maintenance of the properties. The testimony was unanimous on this point. The entire system has been maintained in excellent physical and working condition.

The physical and financial condition of this company is much more favorable than has been found to exist in other street railway properties generally in this state. It has enjoyed a high degree of credit and it has built and enlarged its system constantly in an effort to keep pace with the remarkable growth of the city which it serves. The time has apparently come, however, when unusual steps must be taken if this company is to render to the people of Los Angeles the quality of street railway service to which they are entitled. The city has inter-

vened in this case as an interested party. Its interest goes to every important attribute of this corporation—its service, its rates and its finances. In the present inquiry, the finances of this company primarily are involved, but this necessarily entails the problem of service.

In its intervention, the city of Los Angeles addressed itself primarily to questions of value and interest rate. The city took the position that it would be inimical to its interests if a finding should be made directly or directly ascribing to this street railway properties an undue value. The city of Los Angeles also raised the issue that the contemplated mortgage permitted a 6 per cent bond, whereas the present mortgages of the operating company provide for a 5 per cent bond. As the question of the interest rate on the bonds is left optional under the mortgage and the actual interest is dependent further upon the discount at which the securities may be sold, we believe the objection of the city upon this point may be more properly raised when the applicants present the exact basis upon which they propose to issue the bonds in question. It was at first proposed by the applicants that the bonds herein requested to be issued should be exchanged bond for bond for outstanding bonds. It was later stated by the applicants that they would issue or exchange the new bonds on the best terms possible. As the modified terms have not been presented, it will obviously not be possible for this Commission to pass thereon at this time.

This leaves for consideration the issue of fundamental importance in this application—the question of value. This was the problem to which the company addressed itself, the issue which the city of Los Angeles raised, and the subject of independent investigation by the Commission's engineering department. The summaries of values heretofore given show that the estimates of the depreciated reproduction value of this system made by the engineers for the city of Los Angeles and by the engineering staff of this Commission are both less than the face value of the bonds for the issue of which authority is herein requested. These estimates of depreciated reproduction value as submitted are as follows:

| | |
|---|-----------------|
| City of Los Angeles as of January 1, 1913----- | \$14,782,112 00 |
| Los Angeles Railway Corporation as of December 1, 1913 ----- | 24,579,556 00 |
| Los Angeles Railway Corporation as of August 1, 1914 (not entirely depreciated)----- | 27,792,058 97 |
| Engineering Department of Railroad Commission as of December 1, 1913----- | 19,747,767 00 |

The valuation presented by the city of Los Angeles is not entitled to the weight of consideration which a carefully prepared inventory and appraisalment is given by this Commission. In fact, the engineers who prepared this report for the city stated that it was not prepared for presentation to the Commission and that it was only an engineering

estimate. It is not contended by the city that this report should be taken as showing the real value of the properties of applicant.

On the other hand, the report submitted on behalf of applicant shows a lack of care in preparation, which makes me very cautious in accepting the conclusions arrived at therein.

The report made by this Commission's engineers was made with the greatest care and goes into painstaking detail and I believe it can fairly be said to be an exhaustive report, and while it is, of course, possible that the final determination of value may increase the figures submitted therein, I am not convinced that a showing can be made of a value of applicant's plant equal to the face value of its outstanding bonds.

In its investigation this Commission, and the city of Los Angeles as well, has been embarrassed by the absence of many of the most important books of the predecessor companies of these applicants. The explanation was made that these books had been burned, as it was thought their usefulness had ended. This does not appear to me to be a valid explanation, and I have no hesitancy in rejecting the excuse that these books would be no longer useful. Any man who has served a big public service corporation as long in an official capacity as have certain of the officials of these applicants, either did know or ought to have known the extreme importance of preserving corporate records. I think the conclusion justified, therefore, that these books were either destroyed or allowed to be destroyed in order to avoid a public revelation of their contents.

There are certain records which would be of very great use in determining the issue now presented. For instance, it has not been possible for this Commission to prepare an exact statement of the original cost of these properties, although such cost was estimated from such records as were available to have been up to December 1, 1913, \$20,250,000.00. These records would show the details of various security issues and the benefits received from such issues. It appears that Mr. Huntington had advanced large sums of money. Thereafter, for these advances he was reimbursed through the issue of a large block of bonds. The details of this transaction are not now available to this Commission and the applicants stated that they were unable to furnish further evidence thereon.

It is in testimony that Mr. Huntington, who is the owner of all but a few directors' shares of the stock of these applicants, is also a heavy owner of the bonds of Los Angeles Railway Corporation, City Railway Company of Los Angeles and their subsidiaries.

It has been my purpose to endeavor to outline a basis upon which this Commission could grant this application. It had been my intention to have worked out a form under which certain of these bonds now held by Mr. Huntington might either be transferred into stock, or perhaps placed in escrow, so that there should remain outstanding and in the

hands of the public an amount of bonds sufficiently less than the value of these properties to make future financing possible on advantageous terms, and to safeguard fully the interests of the city of Los Angeles in this matter. It is my belief that such a plan is practical. It will entail, of course, the recognition by the chief parties in interest in these railway properties of their proper obligations.

The situation before this Commission must be apparent to these applicants. The various findings of value have been available to them as well as to the Commission. There has been no request from these applicants which would indicate a possible method of procedure under all of the circumstances as developed.

I am of the opinion that the condition of this railway system, physical and financial, is such that with a proper degree of cooperation on the part of its chief parties in interest with the city of Los Angeles and with this Commission, it can solve the question now confronting it. It is necessary for these companies, either through their own corporate organizations or through a new corporate organization, to raise further funds to meet service requirements of the city of Los Angeles. There should be no undue delay in taking the necessary steps to meet this situation.

I find that under all of the circumstances I would not be justified in recommending that this application be granted as presented, nor am I inclined to deny it for all time. I believe the modification of the present financial plan, in this particular instance, should spring from the company rather than from this Commission. I therefore recommend that the application be denied with leave to applicant to submit a modification of the financial plans herein proposed.

Herewith a form of order:

ORDER.

Los Angeles Railway Corporation and City Railway Company of Los Angeles having applied to this Commission for authority to sell their street railway properties in the city of Los Angeles, and The Los Angeles Railway having applied to this Commission for authority to issue stock and bonds and for authority to execute a mortgage of its properties, all as set forth in the preceding opinion; and a hearing having been held, and it appearing that, for the reasons stated in said opinion, said application should be denied.

It is hereby ordered that the application herein be and the same is hereby denied with leave to applicant to submit a modification of its present application.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of March, 1915.

DECISION No. 2194.

IN THE MATTER OF THE APPLICATION OF WELLS, FARGO AND COMPANY EXPRESS FOR AN ORDER GRANTING PERMISSION UNDER SECTION SIXTY-THREE OF THE PUBLIC UTILITIES ACT TO INCREASE CERTAIN EXPRESS RATES FROM BODEGA, CALIFORNIA.

Application No. 1433.

Decided March 3, 1915.

Alfred Sutro, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

Wells Fargo and Company Express under its application dated September 4, 1914, petitioned the Commission for an order granting permission, under section 63 of the Public Utilities Act, to increase the express rates on fruits, vegetables and eggs, from 60 cents to 65 cents per one hundred pounds and on butter from 40 cents to 50 cents per one hundred pounds, between Bodega, California, and San Francisco; also, on fruits, vegetables, eggs and butter from 75 cents to 80 cents per one hundred pounds, between Bodega, California, and Alameda, Berkeley, Elmhurst, Fruitvale, Oakland and Oakland Pier.

Interested parties having objected to the proposed increases the matter was set for hearing, consequently, carrier and objectors were duly notified to appear and give testimony on February 23, 1915, in the office of the Commission, 833 Market street, San Francisco.

At the appointed hour and place the Commission proceeded to hear the matters in issue, but discovered that no one was present to oppose the increase. The Commission ordered a short recess hoping that the protestants would put in an appearance but, failing to do so, the hearing was resumed.

Before the hearing had closed, carrier, through its counsel, orally expressed a desire to withdraw the application for the increase.

I submit herewith the following form of order:

ORDER.

Applicant having requested a dismissal of this application,

It is hereby ordered that this application be, and the same is hereby, dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of March, 1915.

DECISION No. 2195.

IN THE MATTER OF THE APPLICATION OF THE CITY OF KINGSBURG FOR PERMISSION TO CONSTRUCT FIRST STREET AT GRADE ACROSS THE TRACKS OF CENTRAL PACIFIC RAILROAD COMPANY AND ITS LESSEE, SOUTHERN PACIFIC COMPANY, IN THE CITY OF KINGSBURG, FRESNO COUNTY, CALIFORNIA.

Application No. 1459.

Decided March 5, 1915.

Applicant, City of Kingsburg, applies for permission to construct a crossing over the tracks of Southern Pacific Company and it appearing that though public convenience necessitates such crossing, an automatic flagman will be necessary to protect same, the expense of which, applicant is unwilling to stand. Application granted, provided, applicant shall provide the necessary funds for such construction including an automatic flagman, the expense of such flagman to the city not to exceed \$500.00.

*F. M. Worthington and W. M. Jackle, for Southern Pacific Company.
R. G. Retallick and Andrew Erickson, for City of Kingsburg.*

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This application looks to the opening of a grade crossing across the main line track of the Southern Pacific Company and an industrial siding to form a connection between Front street, William street and First avenue on the east and Simpson street, Oluf street and First avenue on the west, in the city of Kingsburg, Fresno County.

In the immediate vicinity of this proposed crossing there are three packing houses which ship out during the fruit season several hundred cars of fruit, and although there is a crossing north of this proposed crossing a short distance, it was testified that during the fruit shipping season the congestion at this point was so great that it was desirable to construct an additional crossing over the tracks. No large amount of testimony was taken on this point as it was apparent from inspection on the ground and was admitted by representatives of the Southern Pacific Company, that it was reasonable and necessary that a grade crossing should be constructed in this vicinity.

The location of the packing houses is such that drivers of vehicles approaching from the east would be in considerable danger by reason of being unable to see trains approaching from the north and on that account it was apparent that this crossing should be protected and no great difference of opinion existed regarding the need of such protection.

The principal matter involved was the division of expense of such protection. It was testified by a representative of the Southern Pacific Company that it would cost in the neighborhood of \$550.00 to install an automatic flagman at this point, and the city took the attitude that

they were unable to pay for this and that it would be fair and equitable for the Southern Pacific Company to stand a share of this expense. As far as the Southern Pacific is concerned the installation of this crossing will be of no advantage to it, and I see no reason why the usual method of apportioning the protection expense should not be followed in this application. The Southern Pacific Company agreed, however, to stand all expense over and above the amount of \$500.00 and it was suggested that the city could secure from the Southern Pacific Company the installation of this protection device and reimburse the Southern Pacific Company therefor at some future period. It was also suggested that the city might possibly secure some of the money necessary for the installation of this flagman from the owners of the packing houses in the vicinity of the crossing. These matters are to be worked out by the city and if they can arrive at a means of paying for this protection device the crossing should be installed, but since I am of the opinion that it should not be installed without such protection device, I will recommend that a provision be embodied in the order to the effect that if and when the city of Kingsburg finds means for paying for the protection of this crossing by means of an automatic flagman the crossing can be constructed and opened.

I recommend the following form of order:

ORDER.

City of Kingsburg, having filed its application with the Commission for permission to construct First street at grade across the tracks of Central Pacific Railway Company, and its lessee, Southern Pacific Company, in the city of Kingsburg, Fresno County, California, and a public hearing having been held, and the Commission being fully apprized in the premises,

It is hereby ordered that this application be and the same is hereby granted, subject to the following conditions and not otherwise, viz:

(1) The expense of constructing and maintaining the crossing between the tracks and up to within two (2) feet outside of the outside rails thereof shall be borne by Southern Pacific Company. The expense of constructing and maintaining the crossing up to within two (2) feet of the outside rails of the tracks of Southern Pacific Company shall be borne by the applicant.

(2) The crossing shall be constructed of a width not less than twenty-four (24) feet, with grades of approach not exceeding four (4) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) For the protection of this crossing the Southern Pacific Company shall furnish and install a first-class automatic flagman, of a type to be approved by the Commission. The cost of this protection device to an amount not greater than five hundred (500) dollars shall be borne by

the applicant, and all expense over and above five hundred (500) dollars shall be borne by Southern Pacific Company. The cost of maintaining this automatic flagman thereafter in good and first-class condition shall be borne by Southern Pacific Company.

(4) The city of Kingsburg four (4) months from the date of this order, shall notify the Commission of its acceptance or rejection of this order, and thereafter such further order shall be made by the Commission as may be deemed necessary.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of March, 1915.

DECISION No. 2196.

VEY CRAMER

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 720.

Decided March 5, 1915.

Complainant desiring electric service and defendant being unwilling to construct the necessary extension at its own expense, complainant petitions the Commission to compel the installation of such service connection and the expense of such connection being in excess of what defendant could reasonably be expected to incur, agreement reached between parties in interest by which complainant agrees to pay \$90.00 toward construction cost of extension and to guarantee a minimum yearly rate of \$45.00.

Vey Cramer, in propria persona.

Charles P. Cullen, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is a complaint by Vey Cramer of Orangevale, Folsom, R. D. No. 1, against the Pacific Gas and Electric Company, alleging that the defendant refuses to extend its lines and provide the necessary facilities to serve complainant with electric energy for lighting and power purposes.

The subject matter of the present complaint was taken up informally with the Commission on July 10, 1914, at which time lighting service only was requested. Later it appeared that complainant would require power service for a two horsepower motor.

The formal hearing in this case was held at Sacramento on February 15, 1915, and from the evidence submitted it appears that the facts are as follows:

The complainant, Mr. Vey Cramer, is a farmer, owning about ten acres of orchard described as lot number 293 of Orangevale. The larger part of the property is irrigated from the Orangevale irrigation system.

Mr. Vey Cramer desires electric service for lights in his dwelling, tank-house, barn and garage and for the purpose of furnishing power to run a two horsepower motor for domestic pumping to supply water for household purposes and the irrigation of an acre or more of lawn and berries.

The defendant's present lines consist of a 2,300-volt primary extension along Green Park Lane and a secondary extension, 1,100 feet in length, southward along the public road to within 800 feet of Mr. Cramer's residence. Originally Mr. Cramer applied for lighting service only, and in which case the defendant proposed to extend the secondary line provided the complainant would advance a part of the cost of the extension.

To give the service at present requested by the complainant will require the reconstruction of the present 1,100 feet of secondary extension by replacing the 25-foot poles now installed by higher poles and extending primary lines thereon and constructing 800 feet of primary extension along the road to reach Mr. Cramer's residence.

The total cost of this extension will be approximately \$271.00. The revenue to be obtained from this service is estimated at \$42.00 per year and it appears that there is little or no prospect of additional revenue to be obtained from this extension.

At the hearing the complainant and the defendant, through its attorney, Mr. Charles P. Cutten, mutually agreed to a settlement whereby the complainant agreed to pay defendant \$90.00 to cover the estimated cost of the line extension from his residence to the defendant's present secondary line, and further to guarantee an annual revenue of \$45.00 per year. Further, that should additional business be obtained on this extension, an adjustment of the guarantee and rebate on the amount advanced would be arranged.

I recommend that the terms of this agreement be adopted by the Commission in its order. This voluntary agreement between the parties, however, must not be regarded as a precedent for future cases before the Commission.

After a careful consideration of the settlement agreed to by complainant and defendant, I find that complainant is entitled to receive service and that defendant should construct the necessary line, supply and install the necessary facilities and connections and furnish electric energy to complainant under the conditions which are specified in the order herein.

I submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, and the case having been submitted and now being ready for decision,

It is hereby ordered that the Pacific Gas and Electric Company, within twenty days after the payment of the sum of \$90.00 by Vey Cramer to it, shall construct and extend its electric lines and furnish complainant with electric power for lighting and power purposes as requested;

Provided, that Vey Cramer shall agree to pay to the Pacific Gas and Electric Company a minimum annual revenue of \$45.00 per year for a period of five years or until such less time as the rates or regulations covering this matter are changed by this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of March, 1915.

DECISION No. 2197.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, AGENT FOR PACIFIC FREIGHT TARIFF BUREAU, FOR AN ORDER GRANTING PERMISSION TO CANCEL ITEM 10, PAGE 13, OF C. R. C. NUMBER 70, WHICH PROVIDES CLASS D ON BARRELS (WOODEN), CASKS (WOODEN), NOT OTHERWISE SPECIFIED, WOODEN TIERCES, KEGS, DRUMS, KITS, AND WELL BUCKETS (EXCLUSIVE OF BEER PACKAGES) MINIMUM CARLOAD WEIGHT 14,000 POUNDS, SUBJECT TO RULE 6-B OF WESTERN CLASSIFICATION.

Application No. 846.

Decided March 5, 1915.

Applicant having submitted statistics showing tonnage moved and commodity rates proposed to be established on wooden barrels, casks, etc., in accordance with the provisions of original order herein and it appearing that the slight increase effected thereby is justified, application granted.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

SUPPLEMENTAL OPINION.

On February 27, 1914, the Commission, after a public hearing, made its report in the above entitled proceeding. No formal order was made, but the carriers were instructed to submit for the Commission's approval commodity rates for the articles listed under Item 10 (Wooden Barrels, Casks, etc.) of Pacific Freight Tariff Bureau, Exception Sheet No. 1-C, C. R. C. No. 70, between points where tonnage moved, which, when subject to the Western Classification Class "B" rating, would prove excessive.

The effect of the cancellation of Item 10 from the exception sheet would be to change the carload rating on Wooden Barrels, Casks, Tierces, Kegs, Drums, Kits and Well Buckets from Class "D," minimum weight 14,000 pounds, to Class "B" with same minimum, as carried in the Western Classification. At the hearing evidence was presented to show that exclusive of movements to points in the San Joaquin Valley, there is but little tonnage in carload lots of new cooperage, and therefore the changes proposed, as far as new cooperage is concerned, would not result in material increase in revenue or affect a great number of shippers. The present movement is mostly of empty carriers, returning, which take rating of 15 per cent of charges on new carriers, and from the exhibits entered at the hearing and referred to in the original report, it appears that the revenue on these empty carriers, returning, is not high and some advances appear to be justified. Since making its report the Commission has been the recipient of communications from shippers and receivers of cooperage to the effect that they have no objections to the cancellation of the item from the Exception Sheet, provided commodity rates are published to certain points in the San Joaquin Valley.

Statements from the San Pedro, Los Angeles and Salt Lake Railroad Company, Western Pacific Railway Company, and Tonopah and Tidewater Railroad Company indicate that practically no new wooden cooperage is handled in carload lots. The Northwestern Pacific Railroad Company already provides commodity rates on cooperage between points on its line, and therefore is not interested.

The following commodity rates are suggested by The Atchison, Topeka and Santa Fe Railway Company and the Southern Pacific Company to points in the San Joaquin Valley, same being Class "D" rates prior to May 27, 1912, the effective date of this Commission's order in Case 116:

Via The Atchison, Topeka and Santa Fe Railway Company—From San Francisco to Oleander, 17½¢; Fresno, 17½¢; Reedley, 19½¢; Conejo, 18¾¢; Hanford, 19¾¢; Mattei, 17¾¢; Parlier, 19¢; Lac Jax, 19½¢; and

Calwa, 17½c per hundred pounds, earloads, minimum weight 14,000 pounds.

Via Southern Pacific Company --From San Francisco to Fresno, 17½c; Barton, 18c; Las Palmas, 18½c; Fowler, 17¾c; Selma, 18¾c; Reedley, 19½c; Lac Jac, 19½c; and Armona, 19¾c per hundred pounds, earloads, minimum weight 14,000 pounds.

Upon full consideration of the matter, I see no reason for objection to the course of procedure suggested by carriers, and will permit the cancellation of the item from the Exception Sheet, which item is now shown as No. 40 on page 14 of Pacific Freight Tariff Bureau Exception Sheet No. 1-D, C. R. C. 90. The commodity rates set forth above are to be made effective on the same date as the cancellation of the item from the Exception Sheet.

Accordingly, I recommend the following order:

ORDER.

F. W. Gomph, agent for the Pacific Freight Tariff Bureau, having made application to this Commission as outlined in the foregoing opinion, and a hearing having been held,

It is hereby ordered that F. W. Gomph, agent for the Pacific Freight Tariff Bureau, be hereby authorized to cancel Item No. 40 carried on page 14 of Pacific Freight Tariff Bureau Exception Sheet No. 1-D, on condition that the commodity rates set forth in the supplemental opinion be made effective on the date Item No. 40 is canceled from the Exception Sheet.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of March, 1915.

DECISION No. 2198.

RIVERSIDE PORTLAND CEMENT COMPANY

vs.

SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY,
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,
SOUTHERN PACIFIC COMPANY, AND WM. G. HENSHAW, DOING
BUSINESS AS A RAILROAD CORPORATION UNDER THE NAME AND
STYLE OF CRESENT CITY RAILWAY.

CALIFORNIA PORTLAND CEMENT COMPANY, *Intervenor.*

Case No. 539.

Decided March 5, 1915.

Complainants, engaged in the cement manufacturing business, attack the rates of defendant companies, alleging that the present rate of \$1.50 per ton on cement in earload lots of 60,000 pounds as at present in effect between Crestmore

and Los Angeles, are unjust and exorbitant and base such allegations on a considerable number of comparisons and averages to which very little weight is attached, such as comparisons with rates effective between central California cement plants and San Francisco, the latter being water-compelled rates and accordingly bearing no relation to the rates in question.

Held, After review of the evidence tendered, that the rate via Crescent City Railway Company and Southern Pacific Company is excessive, rate of \$1.25 per ton in earload lots of 60,000 pounds established, such reduction to be apportioned over the lines of both companies. Complaint as regards The Atchison, Topeka and Santa Fe Railway Company and San Pedro, Los Angeles and Salt Lake Railway, dismissed though recommendation made that a corresponding rate be made effective on these lines also. Complainant, in accordance with its statements heretofore made, is expected to reflect the reductions herein directed in the selling price of its products.

Seth Mann, for Complainant.

A. S. Halsted, for San Pedro, Los Angeles and Salt Lake Railroad Company.

E. W. Camp, for the Atchison, Topeka and Santa Fe Railway Company.

Geo. D. Squires and *F. B. Austin*, for Southern Pacific Company.

W. J. Bohon, for Crescent City Railway.

Fred P. Gregson, for California Portland Cement Company.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

The complainant in this case, Riverside Portland Cement Company, is a corporation engaged in the business of manufacturing Portland cement at Crestmore, in Riverside County, on the so-called Crescent City Railway. This railway connects with the lines of the Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway (hereinafter referred to as the Santa Fe) at Riverside and with the line of the San Pedro, Los Angeles and Salt Lake Railroad Company (hereinafter referred to as the Salt Lake Railroad) at Crestmore, and in conjunction with these lines operates a through route and a joint rate for the transportation of cement from Crestmore to Los Angeles.

The distances between these points via the various routes are as follows:

| | |
|---|-----------|
| From Crestmore to Los Angeles, via Crestmore and Salt Lake Railroad----- | 55 miles. |
| From Crestmore to Los Angeles, via Riverside and Santa Fe Railroad (South Line)----- | 64 miles. |
| From Crestmore to Los Angeles, via Crescent City Railway, Riverside, and Southern Pacific----- | 67 miles. |

A joint rate of \$1.50 per ton of 2,000 pounds is maintained by the defendants for the transportation of cement in earload quantities of 60,000 pounds or more from Crestmore to Los Angeles via either of the routes named. This rate the complainant alleges is unjust, unreasonable and excessive and in violation of the Public Utilities Act and

prays that the same be reduced to 70 cents per ton. The defendants deny these allegations and maintain that the present rate is just and reasonable.

The California Portland Cement Company asked leave and was granted permission to intervene in this proceeding. This company operates a plant at Colton for the manufacture of Portland cement and ships therefrom a large portion of its product to Los Angeles, where it is marketed in competition with the cement manufactured by the complainant at Crestmore. Colton is located on the lines of the Southern Pacific Company, Santa Fe, and Salt Lake railroads, a few miles distant across country from Crestmore, and these carriers have maintained the same rates on cement from Colton to Los Angeles as from Crestmore to Los Angeles, and this company is interested in maintaining that relative adjustment.

The construction of the complainant's plant at Crestmore was commenced in 1906, and at that time the rate on cement from Riverside, the nearest shipping point, to Los Angeles was \$2.50 per ton via either the Southern Pacific Company, Santa Fe, or Salt Lake railroads. Thereafter, in 1908, that rate was reduced to \$2.00 per ton and later in that year to \$1.50 per ton. This latter rate was in effect when complainant made its first shipment, in January, 1910.

The complainant then owned and operated as an industrial railroad the Crescent City Railway, which it had constructed from Crestmore to Riverside after the Southern Pacific Company had refused to build a branch line from Riverside to the plant, and this line delivered the loaded cars to and received the empty cars from the Southern Pacific Company, Santa Fe, and Salt Lake railroads at that point. The cost of this service was, of course, borne by the cement plant. Later cars were interchanged with the Salt Lake Railroad at Crestmore, about a mile distant from the cement plant, that line having constructed a branch line to Crestmore from Bly Junction, a point on its main line, a distance of approximately 6.6 miles, and the rate of \$1.50 per ton was published and made effective by that line from Crestmore to Los Angeles. In December, 1912, the so-called Crescent City Railway was separated from the cement plant and thereafter was operated as a common carrier and placed itself under this Commission's jurisdiction as such. In the following year the rate of \$1.50 was made effective as a joint rate from the plant at Crestmore in connection with the Crescent City Railway and that line was allowed as a division out of that rate 20 cents per ton for the service of hauling the loaded cars between the plant and the respective junction points with the other defendants. Concurrently with the establishment of the joint rate the minimum carload weight was increased from 40,000 pounds to 60,000 pounds. In this connection a witness for the complainant stated that although the construction of

the Crestmore plant was commenced when the rate of transportation on cement from Riverside to Los Angeles was \$2.50 per ton, that from conferences had with the officials of the Southern Pacific Company regarding the rate adjustment it was assumed that the same rate would be established from Riverside to Los Angeles as applied from the central California cement plants to San Francisco and that since the plant has been in operation the complainant's general manager has persistently endeavored to have the rates so adjusted.

To sustain its contention of the unreasonableness of any rate for the transportation of cement from Crestmore to Los Angeles greater than the rate of 70 cents per ton proposed by it, the complainant contrasts the average car, car mile and ton mile earnings of the Southern Pacific Company, Santa Fe and Salt Lake Railroad Company on all traffic in California with possible returns on the rate it proposes. The exhibit, as filed, contains many incongruities. For example, in computing the possible ton mile and car mile earnings on the proposed rate via the Southern Pacific Company and the Santa Fe, the complainant has used mileages via routes not yet established and over which the present rates do not apply and to ascertain the average earnings per car mile and ton mile on the proposed rate to Los Angeles and intermediate points, the complainant has merely divided the sum of the rates per ton mile and per car mile to those points by the number of points to which said rates are shown. Similarly the complainant erred by assuming to obtain total average earnings per car mile and per ton mile on the lines of the Southern Pacific Company, Santa Fe and Salt Lake Railroad simply by dividing the sum of their system averages by the number of lines whose averages were included in the total. The mere statement of the method pursued is sufficient without comment to demonstrate its error. The mileage via the established routes over which the traffic moves should be used and the possible average earnings on the proposed rates should be based on the actual movement on the existing rates.

The defendants maintain that there is no relationship between the earnings per car mile or per ton mile on any single rate and the average car mile and ton mile earnings on all the rates on traffic in California and that the fact that the car mile or ton mile earnings on a rate on a certain commodity are greater than the general average earnings per car mile or ton mile on all rates does not indicate in any respect that the rate on the single commodity is either too high or too low. To a great extent this contention is correct. In the general car mile and ton mile averages of the carriers are included earnings on rates depressed by competition and perhaps other conditions and earnings on proportional rates and divisions of rates sometimes considerably less than full local rates and which, if taken by themselves,

would not be considered as standards for reasonable normal rates. Likewise, in many cases, as the carriers point out, such averages are based on mileages via routes over which the traffic was moved at the carrier's convenience, when as a matter of fact, the rate was established by a shorter line.

These general averages indicate the average revenue received by the carrier on all the traffic carried. They include not only earload traffic but less than earload as well. In the average earnings per ton mile are included less than earload movements at class rates into the mountain regions at high rates and into the valley regions at lower class rates, but still at rates per ton mile vastly in excess of the rates per ton mile on cement.

Again, the average rate per ton mile is for an average haul over the Southern Pacific lines of 145 miles with an average loading of 17 tons per car, which is a very different proposition than the distance of from 55 to 67 miles over which the cement moves from Crestmore to Los Angeles.

At best these general averages simply indicate that if all the traffic the carrier handled moved exactly the same distance it could be transported regardless of classification at the average rate per ton per mile shown in the complainant's exhibits. To intelligently consider the car and ton mile earnings we must have before us the earnings on earload commodities moving substantially the same distance and then after a consideration of the average loading of each commodity, competitive conditions and its proper classification determine whether a proper relationship exists between the rates on the various commodities. In fact, every element which must be considered to determine the fairness of rate comparisons must likewise be considered in comparing car mile and ton mile earnings.

The complainant's main cause for complaint seems to rest upon the fact that the Southern Pacific Company originally established a rate of 75 cents per ton on cement, in earload quantities, from Napa Junction, Tolenas and Davenport to San Francisco for distances of 61, 51 and 87 miles, respectively, and likewise that the Atchison, Topeka and Santa Fe Railway and later the Southern Pacific Company established a similar rate for the transportation of cement, in earload quantities, from Bay Point to San Francisco for distances of 35 miles and 41 miles via their respective lines, and that thereafter this Commission by a formal order extended the rates from Bay Point and Tolenas so as to apply from the cement plants at Cowell and Cement to San Francisco jointly by these carriers and the lines that serve those plants; whereas these carriers conjointly with the Crescent City Railway have established and now maintain a rate of \$1.50 per ton on cement, in

carload quantities, from Crestmore to Los Angeles for similar or lesser distances.

It is not claimed by the complainant that the adjustment of the cement rates from the Central California Mills to San Francisco subjects it to an undue discrimination, but it contends merely that if the rates from these mills to San Francisco are reasonable for that service, which it contends this Commission must find since those rates were originally voluntarily established by the carriers and subsequently so held to be by this Commission, then no greater rate should be charged from Crestmore to Los Angeles where the transportation conditions surrounding the service are less burdensome. The carriers contend that the rates from Napa Junction, Davenport, Tolenas and Bay Point to San Francisco are unduly low and were established and maintained to hold the cement traffic against carriers by water, and therefore that these rates should not be considered as a measure for rates from Crestmore to Los Angeles, where the transportation conditions are entirely dissimilar.

Relating the history of the rate on cement from Napa Junction to San Francisco, a witness who was connected with the Napa Junction plant at its inception and who is now associated with it in an advisory capacity and who carried on with the Southern Pacific Company the negotiations for the rates on cement therefrom, testified that his company was in a position to demand the 75-cent rate to San Francisco by reason of the proximity of the Napa Junction plant to navigable waters, the plant being located a mile and a quarter from Napa River and steps having been taken towards constructing an industrial railway line between the plant and the river to enable the plant to ship by water, and that if the 75-cent rate had not been established from Napa Junction to San Francisco that facilities for transporting the cement between those points by water would have been installed by his company. This witness was also connected with the Davenport plant at its inception and is now associated with that plant also in an advisory capacity, and regarding the history of the establishment of the rate from that point to San Francisco testified that the factory was established at Davenport mainly because of the possibility of shipping therefrom by water; indeed that some small shipments of lime had actually been made therefrom by water carriers and that preparations were actually made to install the necessary facilities to enable it to so ship and that the Southern Pacific Company in addition to being compelled by these conditions to concede the rate of 75 cents per ton from Davenport to San Francisco was forced also to construct a branch line to the plant. This testimony was corroborated by traffic officials of the Southern Pacific, who also testified that possible water competition was the controlling reason for the establishment of the rate of

75 cents per ton from Tolenas to San Francisco, as they were satisfied upon the representations of the company operating the plant at Cement that unless the 75-cent rate was established it would construct its own facilities to tidewater to enable it to ship thence to San Francisco by water carriers. The traffic manager of the company operating the plant at Cowell testified that his company started to construct a railway line to tidewater, and in fact did construct a line to a junction point with the Santa Fe at Bay Point after the Southern Pacific Company had refused to build a branch line something over three miles in length from Concord, on its San Ramon Branch, to the Cowell plant and the Santa Fe Railway thereupon established the rate of 75 cents per ton from the junction at Bay Point to San Francisco, which rate the Southern Pacific Railway also later established.

It is true, as the complainant points out, that no cement had moved by water to San Francisco and that there was no actual rate obtained from any navigation company for the service except that the Cowell plant was quoted a 50-cent rate from its proposed tidewater terminus to San Francisco; but the testimony shows that companies operating the plants at Napa Junction and Davenport had contemplated performing this service with facilities owned and operated by themselves and that estimates of the cost of installing and operating such a service had been made. The testimony likewise shows that the company operating the Davenport plant satisfied the traffic official of the Southern Pacific Company "that if he did not give them a 75-cent rate that they could go to tidewater and they could put in their rate which would be low enough to prevent his getting the business after these facilities had been put in." Likewise the record discloses that the rate of 75 cents per ton was fixed from Napa Junction to San Francisco in the light of similar knowledge and with the knowledge of "what the boats charged on freight between here (San Francisco) and Bay Points and Napa Slough; in a general way we knew about what the measure was there." The record also shows that the rate from Tolenas to San Francisco was fixed at 75 cents because the company operating that plant "satisfied us (Southern Pacific Company) that if they did not get a 75-cent rate from Tolenas to San Francisco they would build to tidewater and ship their material by boat and they could do it at a 75-cent rate." This testimony stands uncontroverted and from it the conclusion that the carriers established the rates from the Central California Mills to San Francisco in contemplation of possible competition by water carrier is irresistible. Whether the rate of 75 cents properly measured the degree of the possible competition it is at this late date useless to speculate on. So much for the history of these rates. Let us now turn to the present conditions.

The record discloses that actual offers to transport cement by boat from Suisun to San Francisco at rates of 45 and 50 cents per ton, including State toll at San Francisco, have recently been made. Either of these rates added to the local rail rate from Cement to Suisun would equal approximately the present all-rail rates from Cement to San Francisco. Similar quotations have been made the company operating the Cowell plant and it is of record that if the present rate from Napa Junction and Davenport to San Francisco is increased that facilities for shipping by water therefrom will be forthwith constructed. In view of this positive testimony I do not believe that the practicability of shipping cement from Napa Junction and Davenport to San Francisco by water, as appears to have been the original intention of the builders of these plants, and concerning which there reasonably might be a difference of opinion, is longer open to question. The testimony that similar steps would be taken to arrange to ship by water from other central California plants to San Francisco if the present rates thereto are increased likewise precludes further question of the practicability of shipping from those plants to San Francisco by that means. In fact, during the past year shipments have actually been made from the plant at Cement to San Francisco via Suisun and the boats of the Napa Transportation Company. Shipments have been made from the plant at Cowell to Mare Island and other points located on navigable water through Port Costa and thence by boat lines.

That the proximity of navigable water to these plants has a potent influence upon these rates appears to me conclusive. Concerning this point the Interstate Commerce Commission in *City of Spokane vs. Northern Pacific Railway Company*, 21 I. C. C. 400, said: "The significant thing is not the *amount* of the movement, but the ever present possibility of that movement." In the same case that Commission also said: "So here the ocean is ever present. The possibility of using it as an avenue of transportation is ever open and the fact that it will be used if for any considerable length of time defendants maintain rates which are so high, or so adjusted as to render it profitable for shippers to resort to that means of transportation, is never doubtful." Again, in *Kentucky Wagon Manufacturing Company vs. Illinois Central Railroad Company*, the Interstate Commerce Commission in considering the question of potential water competition said: "In *Butte Milling Company vs. C. & A. Railroad Company*, 15 I. C. C. Rep. 351, the question was presented whether the rail carriers must wait until actual water competition becomes formidable before they may safely adjust their rates to meet it, and it was held that there is no such rule of law. The suggestion that carriers may not anticipate such competition did not appeal to the Commission as logical from any point of view. Must the carriers maintain the increased rate until an important volume of traffic has

been actually diverted to the water lines in order to prove the effect of such competition or to justify the previously existing low basis. We think not. * * * It is hardly consistent to demonstrate the feasibility and availability of a water route and then prove that such competition is imaginary." That this is likewise the view of the United States Supreme Court appears from its decision in *Interstate Commerce Commission vs. Ala. Midland R. R.*, 168 U. S. 172; 42 Lawyers' Edition 425, where it was said, "When the rates to Montgomery were higher a few years ago than now, actual active water lines competition came in and the rates were reduced to the level of the lowest practicable paying water rates and the volume of carriage by the river is now comparatively small; but the controlling power of that water line remains in full force and must ever remain in force as long as the river remains navigable to its present capacity."

As was said by Commissioner Lane in *Railroad Commission of Nevada vs. Southern Pacific Company*, "without a ship upon it the ocean has the power to restrain in some degree the upward tendency of rail rates," so too, had other navigable waters.

In my opinion, the conclusions reached regarding this point, are not in conflict with the decision of the Interstate Commerce Commission in the so-called Santa Barbara Case—*Commercial Club of Santa Barbara vs. Southern Pacific Company*, 12 I. C. C. 497, wherein the Commission held that Santa Barbara did not enjoy such water competition as to compel the installation of terminal rates by the rail carriers; that there was no real potential compelling competition between transcontinental carriers and those carrying similar traffic by water, which affected directly the rail rates obtaining at Santa Barbara. In that case it does not appear that any bids had been made for the traffic by water carriers at rates approximating those charged by the rail carriers, or that, as in the present case, facilities would be constructed for handling Santa Barbara traffic by water carriers if certain rates were not maintained by the rail carriers. Nor does the Supreme Court in the Behlmer case (*Louisville & Nashville R. R. vs. Behlmer*, 175 U. S. 64) hold that such possible competition would not be substantial and material in its effect upon the rail rates.

As counsel for the complainant suggests, the mere fact that rail rates have been established to meet competition of water carriers does not of itself indicate that such rates are so low as to deprive the rail carriers of reasonable returns. In some cases, as has heretofore been held by this Commission, rail rates might possibly be lower than the rates of carriers by water, but I believe the evidence in this case is sufficient to sustain the carriers' contention that the rates from the central California cement plants to San Francisco were established on a low basis to meet the water competition. The general adjustment of cement

rates from those plants to destinations not located on navigable streams is on a basis somewhat higher than obtains to San Francisco. From Davenport to points less distant therefrom than is San Francisco and not located on navigable waters, the rates are considerably in excess of the rates to San Francisco. The rates from Davenport to points intermediate to San Francisco exceed the rate to San Francisco. From Cowell, Cement and Napa Junction to points a similar distance therefrom as is San Francisco, and which are not similarly located, the rates are considerably higher than from those plants to San Francisco. It appears significant in this connection that the Santa Fe established a rate of 70 cents per ton for the haul of 16 miles from Bay Point to Luzon, and a rate of 75 cents per ton for the haul of 17 miles from Bay Point to Hercules, both of which are intermediate points to San Francisco and are but approximately one half the distance from Bay Point as in San Francisco. It also appears equally significant that the Southern Pacific Company established a rate of 75 cents per ton for the haul of 30 miles from Napa Junction to Port Costa, and for the haul of 21 miles from Tolenas to Port Costa on cement, in carload quantities, which points are intermediate to San Francisco, whereas for the haul from Napa Junction and Tolenas to San Francisco for distances of 61 and 51 miles, respectively, or approximately 100 per cent greater than the distance from Napa Junction and Tolenas to Port Costa, it established no higher rate. The present rate of 75 cents per ton from Cowell to points intermediate to San Francisco on the Santa Fe is actually in excess of the rate to San Francisco, after State toll at San Francisco is deducted. Similarly, the present rate of 75 cents from Cowell, Cement and Napa Junction to points intermediate to San Francisco, located on the line of the Southern Pacific Company, is actually in excess of the rate to San Francisco in case the shipment is transported to San Francisco via Oakland and San Francisco Bay, and passes over the seawall at San Francisco and the State toll therefor deducted. The fact that the points on the line of the Southern Pacific Company intermediate to Port Costa and San Francisco are accessible to water carriers would undoubtedly have some influence upon the rates to those points. Considerable testimony was offered on both sides as to the cost of transporting cement from central California cement plants to San Francisco by boat lines, but, for the reasons hereinbefore set out regarding this point, it would be unprofitable to further consider these estimates, as it is not contended in this case that the adjustment from central California cement plants to San Francisco subjects the complainant to an unjust discrimination, but merely that those rates should be a measure for the rates elsewhere. It appears clear to me, therefore, that after having found that these rates are influenced by potential water competition, and are lower than would

otherwise be maintained, it becomes unnecessary in this proceeding to determine its proper extent. As was held by the Interstate Commerce Commission in *Payne-Gardner Co. vs. L. & N. R. R. Co.*, 13 I. C. C. 638, "Advantages of location, such as proximity to a navigable stream, or strong competition between carriers, naturally result in lower rates to a town so situated, and it is not the province of the Commission to disturb the resulting rate relations unless the discrepancy is so great as to effect an unjust discrimination. * * *"

Counsel for the complainant points out that this Commission in cases heretofore decided by it, has found the 75 cents per ton rate to be reasonable for the transportation of cement from Cement and Cowell to San Francisco, and argues that, therefore, this Commission must hold that those rates form a fair measure for a reasonable rate from Crestmore to Los Angeles.

In cases Nos. 232 and 233, which are the cases referred to, the Commission was called upon to establish through routes and joint rates from the cement plant located at Cowell and Cement on the line of the Bay Point and Clayton Railway and the Cement, Tolenas and Tidewater Railroad, respectively, to points on the lines of The Atchison, Topeka and Santa Fe Railway and the Southern Pacific Company. The decisions in those cases were largely based upon the fact that these companies had extended their lines of railroad to other plants and established rates therefrom, and in other cases had established through routes and joint rates between points on their respective lines and other small railways, whereas these lines had refused to construct branch lines to the plants located at Cement and Cowell or join with the lines serving those plants in through routes and joint rates, and thereby had unduly discriminated against the companies operating those plants. The question of the reasonableness of the rates was not extensively considered. Discrimination was the deciding factor, and although the Commission in those cases found the rates which were established by the carriers from Tolenas and Bay Point as just and reasonable from the plants at Cement and Cowell it was considering the whole rate adjustment on cement from these points to every point in California, and not to San Francisco in particular. In that case we simply held that if the Southern Pacific Company chose to build a branch line from Santa Cruz to Davenport and take cement from the door of the factory, it was unjust to refuse to likewise extend its facilities to the doors of the factories at Cowell and Cement and compel the factories at these points to bring their product to the main line, which burden was not imposed on the Davenport plant.

Subsequent events have not convinced us that this decision was other than just, and the Interstate Commerce Commission has since decided

an almost parallel case in the same way—*Consolidated Fuel Company vs. The Atchison, Topeka and Santa Fe Railway*, 27 I. C. C. 554.

For the purposes of that case, and that case alone, did we find the rates applying from Bay Point and Tolenas to be reasonable as joint rates from Cowell and Cement, based on the fact that the Southern Pacific Company had constructed a branch line for the Davenport plant and received shipments at the factory without cost of transportation to main line.

Under all the circumstances, I am of the opinion that the rates maintained by the defendants on cement in carload quantities from central California cement plants to San Francisco are depressed by possible competition by water carriers and therefore should not be considered as a measure for a normal rate. This principle is fundamental, and it appears unnecessary to cite authority in support of same.

Both the complainant and defendants submitted comparisons of the rates herein called into question with the rates for the transportation of cement established by carriers and regulatory bodies in other states and urged that the comparisons indicate the correctness of their respective contentions. Undoubtedly the complainant can, with persistent searching, find many rates established elsewhere, by carriers and commissions, which, by comparison, would appear to demonstrate the unreasonableness of the rates in question and likewise the defendants can with the same endeavor, find many which would appear to demonstrate the opposite to be true; but such comparisons should be considered with caution and only in the full light of all the circumstances surrounding their establishment, and as but slight evidence in this regard was offered I am not disposed to attach any weight to these showings.

The complainant also contends that the rate of 75 cents per ton established by the Southern Pacific Company and the Salt Lake Railroad from Crestmore to San Pedro and East San Pedro and by the Santa Fe Railway from Crestmore to San Diego in connection with the Crescent City Railway on cement for trans-shipment thence by water carriers to points beyond, and which the defendants admit pays something over and above the cost of transportation, indicates that the rate of \$1.50 per ton maintained from Crestmore to Los Angeles is excessive. This rate it is stated by the carriers is a proportional rate established to the ports at the solicitation of the complainant for the purpose of permitting it to market its surplus product in competition with the Central California Mills in other than "home" markets, and yields such slight returns as to make it unattractive. It is said by one of the defendants that shipments thereon are acceptable only when empties are moving to the port for loading and transportation thence

to interior points and that the business on this rate is not solicited under other circumstances.

That a proportion of a through rate or a proportional rate should not be considered as properly comparable with a local or through rate, is well established. In numerous decisions the Interstate Commerce Commission has held that a comparison to be of value must be between total or entire rates and not between entire rates on the one hand and divisions or proportions of a through rate on the other. In *Baltimore Chamber of Commerce vs. B. and O. R. Co.*, 221 I. C. C. 596, that Commission said: "A proportional rate can not be accepted as the standard of comparison with local rates." It has been similarly established that a rate to a port on freight to move beyond in connection with carriers by water may properly be lower than a rate on the same freight for local use. (*Texas and Pacific Railroad vs. Interstate Commerce Commission*, 162 U. S. 197.)

The complainant also contends that the rate on cement from Crestmore to Los Angeles should be no greater than the rates established by the Southern Pacific Company on plaster for similar and greater distances within the State of California, particular attention being directed to a rate established by that company of 75 cents per ton of 2,000 pounds on plaster, in carload quantities, from Los Angeles to Palmdale, for a distance of 68 miles, and a rate of \$1.50 per ton of 2,000 pounds on plaster, in carload quantities, from Gypsite to Los Angeles, Redlands, and Newport Beach, for distances of 127, 193 and 173 miles, respectively. The rate from Los Angeles to Palmdale has since been canceled by the carrier, on the grounds that no movement had taken place thereon for one year next preceding the date of the application, but that alone would not deprive the showing of its evidentiary value, if the rates were voluntarily established and maintained by the carrier, as no claim was made that they were unduly low to secure their cancellation. The defendants in justification of the rate from Los Angeles to Palmdale state that this rate was in the nature of a proportional rate and was established originally to permit the shipment from Los Angeles to Palmdale of dark plaster for mixing with lighter plaster at Palmdale and trans-shipment thence to other destinations via the Southern Pacific Company.

As I see it, there can be no doubt but that a carrier should be permitted within certain limitations to make rates lower than would otherwise be established in order to encourage the movement of traffic which would not move at higher rates and in furtherance of a policy of fostering plants located on its own line and thereby possibly inducing a greater outbound movement from such plants as is here claimed, if by so doing it does not thereby unduly discriminate, and I believe

that in view of the testimony relating to the establishment of the rate on plaster from Los Angeles to Palmdale and Aeton, which has now been withdrawn because of there being no movement thereon, that it would be improper to take that rate as a basis for the rate from Crestmore to Los Angeles in the absence of any claim by the complainant that the establishment and maintenance of this rate subjected it to undue discrimination.

Similar reasons were not offered in justification of the rate on plaster from Gypsite, and while this rate is for a one-line movement, whereas the rate from Crestmore is for a two-line movement, I find that the rates per ton mile and car mile on the haul from Gypsite are approximately but one half of the rates per ton mile and car mile computed on the proportion of the through rate that the Southern Pacific Company receives for its part of the joint service from Crestmore to Los Angeles. The comparisons follow:

PLASTER, CARLOADS.

Minimum Weight, 50,000 pounds.

| From -- | To-- | Miles | Rate in cents per ton | Revenue per car based on minimum car load weight | Revenue in cents per ton mile | Revenue in cents per car mile |
|---------------|--------------------|-------|-----------------------|--|-------------------------------|-------------------------------|
| Gypsite ----- | Los Angeles ----- | 127 | 150 | \$37 50 | 1.18 | 29.5 |
| Gypsite ----- | Newport Beach ---- | 173 | 150 | 37 50 | .867 | 21.6 |
| Gypsite ----- | Redlands ----- | 193 | 150 | 37 50 | .777 | 19.4 |

CEMENT, CARLOADS.

| From-- | To-- | Miles | Rate in cents per ton | Per car based on minimum car load weight on plaster | In cents per ton mile | In cents per car mile based on minimum loading on plaster |
|----------------------|-------------------|-------|-----------------------|---|-----------------------|---|
| Crestmore ----- | Los Angeles ----- | 67 | 150 | \$37 50 | 2.238 | 55.97 |
| Riverside Junction-- | Los Angeles ----- | 64 | *130 | 32 50 | 2.031 | 50.78 |

| From -- | To-- | Miles | Rate in cents per ton | Per car based on actual loading (35 tons) | In cents per ton mile | In cents per car mile based on actual loading |
|----------------------|-------------------|-------|-----------------------|---|-----------------------|---|
| Crestmore ----- | Los Angeles ----- | 67 | 150 | \$52 50 | 2.238 | 78.96 |
| Riverside Junction-- | Los Angeles ----- | 64 | *130 | 45 50 | 2.031 | 71.09 |

*Southern Pacific Company's proportion of through rate from Crestmore to Los Angeles.

It is well established, as counsel for defendant insists, that the rate per ton mile and car mile decreases as distance increases, but it is obvious, from the above comparisons, that the materially lesser ton mile

and ear mile rates on the plaster from Gypsite can not be justified on this theory, the difference in distance not being sufficient to warrant any such disparity in the ten mile and ear mile rate.

It is conceded by the carrier that the conditions surrounding the transportation of cement are not more burdensome than the conditions surrounding the transportation of plaster, the latter commodity being more susceptible to damage and of greater value than the cement. The cement loads heavily and it may be shipped in any kind of a covered car, as it is not susceptible to loss or damage, claims therefor having been filed on less than 1 per cent of the total shipments, and no great empty car haul is necessary to supply the plant with cars. The volume of cement traffic from Crestmore to Los Angeles is very large, approximately 80,000 tons having been shipped thereto during the year of 1913, in addition to the large volume moving through that point to destinations beyond, approximately 90,000 tons, during the same period. There has been a considerable increase in the output of the Crestmore plant since it began operation. In fact, the tonnage transported therefrom has practically increased 100 per cent. This fact alone, however, would not justify a reduction in the rates as the complainant claims, unless it were shown that the increase in tonnage had operated to lessen the cost of transportation. The lines from Crescent City to Los Angeles present no unusual difficulties of operation.

Considered from all its angles, this traffic is without doubt entitled to low rates, and considering all of the evidence in this case, together with the rates on other commodities for earload movement and the actual movement of such earload commodities, I am convinced that the present rate on cement from Crestmore to Los Angeles is excessive.

I am of the opinion, under all the circumstances, that the rate for the transportation of cement from Crestmore to Los Angeles via the lines of the Crescent City Railway and the Southern Pacific Company is unjust, unreasonable and excessive in so far as it exceeds \$1.25 per ton of 2000 pounds, in earload quantities, which I find to be a just and reasonable rate for the service via that route.

The evidence in regard to the rates maintained by the other defendants, San Pedro, Los Angeles and Salt Lake Railroad Company and Atchison, Topeka and Santa Fe Railway Company, in connection with the Crescent City Railway, does not justify a similar finding as to those rates, but the distance thereby being practically the same, allowing additional mileage to the Salt Lake Railroad because of its branch line service, as by the Southern Pacific route, I recommend that the same rates be established by those lines, although no order to this effect will be issued in this proceeding.

It is also my opinion that a similar reduction in the rates on cement from Colton to Los Angeles should be made to preserve the relation-

ship of the rates from the Colton and Crestmore plants, which the carriers have heretofore established and maintained.

I am of the further opinion that the delivering carriers at Los Angeles should not be required to bear this entire reduction, but that a part thereof should fairly be borne by the Crescent City Railway.

I am of the opinion, also, that the reduction effected by the order of the Commission in this case should be reflected in the selling price of the cement, and the complainant is on record, in this proceeding, as being willing to do so.

I submit the following order :

ORDER.

Riverside Portland Cement Company having filed with this Commission a complaint alleging that the joint rate for the transportation of cement of \$1.50 per ton from Crestmore to Los Angeles maintained by the San Pedro, Los Angeles and Salt Lake Railroad Company, The Atchison, Topeka and Santa Fe Railway Company and Southern Pacific Company, on the one hand, and William G. Henshaw, doing business as a railroad corporation under the name and style of Crescent City Railway, on the other, is excessive, unjust and unreasonable and a regular hearing having been had and basing its order on the findings of fact appearing in the opinion which precedes this order,

It is hereby ordered that the Crescent City Railway and the Southern Pacific Company publish and file with this Commission on or before twenty days from the date hereof a joint rate for the transportation of cement from Crestmore to Los Angeles of \$1.25 per ton, which rate is hereby found to be just and reasonable for such joint service; and

It is further ordered that, as to other matters, the complaint be and it is hereby dismissed; and

It is further ordered that the said Crescent City Railway and the Southern Pacific Company agree upon divisions of said joint rate heretofore found to be reasonable and in event of failure to agree upon such divisions said Crescent City Railway and Southern Pacific Company shall appear before the Commission within twenty days from date hereof and show cause why this Commission should not proceed with the establishment of divisions as provided by law.

The complainant herein, in accordance with its offer, will be expected to reduce its selling price of cement at Los Angeles to the extent that a reduction is hereby effected in the transportation rate thereto.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of March, 1915.

Decision No. 2199, grade crossing; not printed. See end of volume.

DECISION No. 2200.

ANGEL FERRASCI ET AL.

vs.

EMPIRE WATER COMPANY.

Case No. 494.

Decided March 5, 1915.

Defendant company, delivering and selling water to owners of land in the Empire Investment Company's tract, secures part of such water from the Kings River and distributes same ratably to consumers on the east and west banks thereof. It also secures, through ownership of certain shares of stock, a quantity of water from the Lemoore Canal and Irrigation Company. This supply is distributed only to consumers on the east side of the Kings River. As the first source of supply is not sufficient to supply the needs of irrigationists in this district, the west side suffers for want of water during dry periods, while consumers on the east side of the river are better taken care of. Accordingly complainants herein, owning property on the west side of the river, petition the Commission to compel the water company to construct a flume or siphon over the Kings River so as to enable them to deliver water from the Lemoore company to complainant, which action is vigorously protested by consumers on the east side, claiming that there is not sufficient water, and if equitably distributed on both sides will be insufficient to benefit any of defendant's consumers.

As to defendant's contention that it is not a public utility; that defendant's by-laws do not limit the delivery of water to stockholders only or to specific districts; that it owns a system of canals and ditches and operates same for compensation, and as to its contention that it owns no water; that though the water of Kings River is riparian to property of consumers, defendant owns stock in the Lemoore company, by which it secures portions of its supply of water distributed to its consumers for compensation: Defendant accordingly declared to be a public utility subject to this Commission's jurisdiction.

As regards complainants' contention that they are entitled to ratably share in the water secured from Lemoore Canal and Irrigation Company; that though the use of such water is not definitely restricted to the particular district at present served, it has been so used for approximately twenty years, no portion of such waters ever being purposely devoted to consumers on the west side, and it also appearing that such water is not in a quantity to properly irrigate the entire acreage as petitioned by complainants and to so apportion it would work to the injury of all consumers: As previously decided by the Commission, no utility should be compelled to extend its service unless such extension could be accomplished so as not to work injury to consumers at present receiving satisfactory service.

Held. Defendant directed to continue serving consumers on the east side as formerly, applying all surplus water to west side consumers, should they need same, and considering that west side consumers are not as favorably situated as those on the east side, and not receiving the same class of service they should not be compelled to pay a rate equal to east side consumers, and an action tending toward the establishment of a revised schedule of rates along this line would receive favorable consideration. Complaint in all other respects dismissed.

John G. Corvett and Lamberson, Burke & Lamberson, for Complainants.
Scarborough & Bowen, for Defendant.

H. Scott Jacobs and T. J. Gilkerson et al., Intervenor.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an action to compel Empire Water Company to construct a flume or siphon and appurtenances for the purpose of conveying water owned by Empire Water Company and secured by it from Lemoore Canal and Irrigation Company, across Kings River from the east side to the west side of the river, and thereafter to deliver to the lands on the west side of the river in the Empire Ranch their proportion of such water.

The complaint was filed by twenty-nine land owners owning land or having contracts for land in that portion of the so-called Empire Ranch, which is located on the west side of Kings River in Kings County, California. The complaint alleges, in effect, that on or about January 8, 1906, Empire Investment Company was in possession of and owned in fee a large tract of land located in Kings County, California; that Kings River flows in a southerly direction through said lands and that all of said lands are adjacent to Kings River and riparian thereto; that Lemoore Canal and Irrigation Company owns a system of irrigation extending in part to and upon said lands; that on or about January 8, 1906, Empire Investment Company conveyed to Empire Water Company, defendant herein, certain water properties and water rights, more particularly described in deed dated January 8, 1906, a copy whereof is attached to the complaint and marked "Exhibit B," to which deed further reference will hereinafter be made; that on or about January 8, 1906, Empire Water Company entered into a contract with Empire Investment Company to convey to the lands of Empire Investment Company the riparian water of Kings River to which said lands were entitled, and also the water theretofore owned by Empire Investment Company by virtue of its ownership of $8\frac{3}{4}$ shares of the capital stock of Lemoore Canal and Irrigation Company, as set forth in agreement, a copy whereof is attached to the complaint and marked "Exhibit A," to which agreement more detailed reference will hereinafter be made; that the complainants are in possession of, and own in fee or have contracts to purchase, those portions of the Empire Ranch lying west of the Kings River which are particularly described in the complaint; that Lemoore Canal and Irrigation Company's canals, ditches and irrigation system are located on the east side of Kings River, but can readily be extended to the west side of the river; that the lands of complainants, if irrigated, can produce annually profitable crops of grain, corn, alfalfa, vines and trees; that the riparian water of Kings River to which all the lands of the Empire Ranch are entitled, has been insufficient and inadequate for the purpose of irrigating the

lands of complainants or for watering stock or for domestic purposes, and that there is no other source from which said lands can be irrigated except from Lemoore Canal and Irrigation Company water; that complainants are entitled to have delivered to them all the water that may reasonably be required for irrigation, stock and domestic purposes, not exceeding at any one time one cubic foot per second for each quarter section of land, and a prorata proportion of all the water owned and controlled by Empire Water Company, particularly of the water represented by the 8½ shares of the capital stock of Lemoore Canal and Irrigation Company; that complainants have not received from any source sufficient water to properly irrigate their lands or for stock and domestic purposes; that complainants have not received any part of the waters represented by said 8½ shares of the capital stock of Lemoore Canal and Irrigation Company, except that in March, 1910, Empire Water Company delivered Lemoore Canal and Irrigation Company water to the west side of Kings River and irrigated over 800 acres of land; that in 1909, Empire Water Company commenced the construction of a syphon across Kings River for the purpose of conveying Lemoore Canal and Irrigation Company water from the east side of the river to the west side, but that this work was later abandoned; that all the lands of complainants can be irrigated by gravity flow by means of water running through the canals and ditches of Empire Water Company and Lemoore Canal and Irrigation Company, if Empire Water Company should extend its canals and construct a flume or siphon, as requested in the complaint; that Empire Water Company has contracted to deliver to all the lands in the Empire Ranch, including the lands on the west side of Kings River, their ratable proportion of the riparian waters of Kings River and of the water represented by the stock in Lemoore Canal and Irrigation Company owned by the Empire Water Company; that Empire Water Company has refused to construct the necessary canals and flume or siphon for the purpose of conducting Lemoore Canal and Irrigation Company water from the east side of Kings River to the west side thereof; that in order to so convey Lemoore Canal and Irrigation Company water to the west side of the Kings River it will be necessary to construct a ditch or canal, approximately one and one-half miles long, 12 feet wide on the bottom, with banks 3 feet high and 4 feet wide on top, with side slopes two to one, at a grade of at least one foot per mile, and also, for the purpose of crossing the main channel of Kings River, a corrugated iron siphon 260 feet long and 42 inches in diameter, with the necessary bulkheads; and that the cost of such construction would not be disproportionate to the benefit received by complainants. The complainants accordingly ask that this Commission direct Empire Water Company to construct

such canal and siphon or flume, and thereafter to deliver through the same the ratable proportion of the Lemoore Canal and Irrigation Company water to which complainants allege they are entitled.

Attached to the complaint is a copy of a deed dated January 8, 1906, from Empire Investment Company, hereinafter called the Land Company, to Empire Water Company, hereinafter called the Water Company. By this deed the Land Company conveyed to the Water Company all its ditches, canals, weirs and rights of way over its lands in Kings County and a right of way along Kings River and gave the Water Company authority, as agent to the Land Company, to take and divert the waters of Kings River which belong to the Empire Ranch as riparian to the river, and to distribute and deliver the water through its canal and water system to the Land Company's lands. The property conveyed is specifically described in the deed. The deed recites that it is the intention to convey to the Water Company all the water ditches and parts of the water system located upon the Empire Ranch or used in connection therewith and owned by the Land Company. Section 8 of the deed reads as follows:

And the said first party (the Land Company) does hereby authorize and empower the said second party, (the Water Company) as the agent of said first party and its assigns and successors in interest, and does hereby give to said second party, as such agent, the right to take the water of said Kings River flowing over and across said lands, or to which said lands may be entitled, and to distribute the same through the said second party's water system, in accordance with an agreement executed between the parties hereto of even date, and recorded herewith in the records of said county; provided, however, it is distinctly understood that said first party does not convey to second party any riparian or water rights, and nothing herein shall be construed as a conveyance, transfer or waiver of any riparian rights in and to the waters of Kings River and its tributaries and branches belonging to said land, but the waters and water rights in said river to which said lands may be entitled by reason of their riparian character, shall remain a part of and appurtenant to the said lands, and said second party has only the right to take and distribute the same as aforesaid as the agent of the said first party and its assigns and successors in interest; and the rights and authority hereby granted to second party as such agent shall continue and be in full force so long as the said agreement shall continue in force and operation.

Although the resolution of the board of directors of the Land Company, in pursuance whereof this deed was executed, recites that the Land Company is to convey to the Water Company, in addition to the property hereinbefore referred to, "8½ shares of the Lemoore Canal and Irrigation Company," the deed does not seem to convey these shares. It was stated at the hearing, and not denied, that these shares were conveyed to the Water Company by a separate transaction, but

it does not appear whether such conveyance was by separate instrument in writing and, if so, what the terms of such instrument were.

On the same day, and apparently as part of the same transaction, the same parties entered into an agreement, a copy whereof is attached to the complaint herein and marked "Exhibit A." This agreement, after reciting that the Land Company is the owner of the tract of land particularly described in the agreement, known as the Bates and Miller tract and containing 18,712.12 acres, that the Kings River flows through the tract, that all the lands of the tract are riparian to this river and possess the right to take and use therefrom such water as may be reasonably necessary for irrigation, stock and domestic uses thereon, that the Water Company is the owner of a complete water distribution system over and through said tract, by means whereof the entire tract is irrigable and may be supplied with water for irrigation, stock and domestic purposes; that "said first party (the Water Company) also has the right, as the agent of the second party (the Land Company), to take from said river the water to which said lands are entitled as riparian to said river, and to distribute the same to said lands through said water system," and that the Water Company "also owns 8½ shares of the Lemoore Canal and Irrigation Company and the waters to which such shares are entitled, which water may be delivered and distributed through said system to a *part* of said lands for all or any of said purposes," and that "both parties hereto mutually desire to create, establish and maintain a binding, secure and permanent arrangement whereby said water system shall be properly maintained, and said waters shall, through and by means of such system, be perpetually delivered and distributed to all of said lands and the subdivisions thereof for any of said uses or purposes thereon by said second party and any persons who may hereafter succeed to the title of said lands or any subdivision thereof;" the parties agree for themselves and for their successors in interest and assigns that the Water Company, "subject to all valid appropriations of and existing rights to the waters of said Kings River," will distribute to all the lands in the Empire ranch and to each and every subdivision thereof, of not less than twenty acres, all the water that may be reasonably required for the purposes specified, not exceeding at any one time one cubic foot per second for each quarter section. This agreement is made upon certain conditions, among which I desire to draw attention to the following:

1. The Water Company agrees to construct and extend its canals over the entire tract so that it may conveniently furnish and deliver water to all the lands therein and thereafter to maintain its water system, other than lateral ditches, in good order and repair.

2. The Land Company, its successors and assigns, agree to pay annually on the first Monday in September of each year, "as and for all water rents or charges for furnishing and delivering the water as herein agreed, the sum of one dollar per acre for each acre of said lands owned by them." It thus appears that the charge of one dollar per acre was to be paid according to the number of acres owned by the land owner, entirely irrespective of the number of acres irrigated.

3. The Water Company agrees that if at any time the amount of available water is insufficient to supply the necessities of all the lands irrigable from its system, the available water shall be prorated according to the acreage irrigated.

4. The parties agree that the agreement shall bind and inure to the benefit of all the lands in the entire tract and that the rights and benefits granted thereby and the duties, liabilities and obligations imposed thereby shall remain appurtenant to and binding upon each subdivision of the land and shall not become released or separated therefrom by any method, including adverse possession or statute of limitations, except by written instrument executed by the owners of the subdivisions of the lands and the Water Company, its successors or assigns, and duly recorded in Kings County.

The answer, after denying certain allegations of the complaint, alleges in a separate defense that the facts of the case are as follows: That the Land Company, in 1905, purchased the Bates and Miller tract, containing about 18,712 acres, and immediately thereafter subdivided the tract, under the name of "Empire Ranch" into 40-acre lots; that the entire tract was claimed to be riparian to Kings River and that Bates and Miller conveyed to the Land Company all appurtenant riparian rights; that the Land Company has sold the entire ranch except 1100 acres on the west side of the river and 365 acres on the east side of the river; that as to some 367 acres on the east side of the river heretofore contracted to be sold the Land Company has brought suit to foreclose the contracts; that with each lot sold there was conveyed or agreed to be conveyed to the purchaser, the lot's pro-rata share of the riparian rights appurtenant to the tract; that shortly after the purchase and subdivision of the tract, the Water Company was formed for the purpose of holding, operating and maintaining the ditches and water system over the tract as the agent and trustee of the Land Company and its assigns or successors in interest in the tract; that on January 8, 1906, the Land Company, conveyed to the Water Company its water system and properties already herein referred to; that at the same time there was assigned to the Water Company by the Land Company 8½ shares of the capital stock of Lemoore Canal and Irrigation Company, which water had theretofore been used only upon

that portion of the ranch which lies east of Kings River; that there are two sources of water supply, first, the riparian water flowing in Kings River, and, second, the waters obtained by virtue of ownership of the shares of stock in the Lemoore Canal and Irrigation Company; that certain lands described in the answer, and located generally in the northeastern and eastern sections of the ranch, can be irrigated only from water secured from the Lemoore Canal and Irrigation Company's system, and that all the other lands in the ranch, both on the east and on the west sides of the Kings River, can be irrigated from riparian water obtained from the Kings River; that about 16,037 acres are to be irrigated from defendant's water system, whereof about 9,486 acres are located on the east side of the river and about 6,551 acres on the west side, and that of said 9,486 acres on the east side some 3,720 acres can be irrigated only from the canals of Lemoore Canal and Irrigation Company, being, as it alleged, too high for irrigation from the river; that the main canal of Lemoore Canal and Irrigation Company takes water out of the Kings River near the northerly line of section 32, township 17 south, range 21 east, M. D. B. and M., and that the main canals and laterals run thence southwesterly to the Empire Ranch, a distance of some 12 or 13 miles; that under the rules and regulations of the Lemoore company, each share of stock is supposed to furnish enough water to irrigate 640 acres of land, but that by reason of the great distance the water must flow and the porous character of the land through which the ditches are constructed, about two thirds of the water taken in at the headgate is lost by seepage, absorption and evaporation before it reaches the Empire Ranch, so that in normal seasons the Water Company secures from its ownership of the Lemoore stock only from 20 to 25 cubic feet of water; and that if it is attempted to distribute this water over the entire Empire Ranch, it would do no one any practical good.

The answer then alleges that the Water Company has really no personal interest in the controversy, that it does not claim any right to use the Lemoore shares for its own benefit, but only for the benefit of the owners of lands in the ranch; that the company has no interest in distributing the water to one class of users rather than another, and that so far as it is personally concerned, the company is willing to distribute the water as this Commission may direct, and is willing to construct such canals, siphons or other structures as may be directed by this Commission.

A petition in intervention was filed by T. J. Gilkerson in behalf of himself and other land owners owning land in fee or having contract rights to land in that part of the Empire Ranch which lies east of Kings River. The petition alleges, in part, that for more than twenty years

prior to the execution of the agreement dated January 8, 1906, all the water secured from the Lemoore Canal and Irrigation Company's system was used only upon the lands lying east of the Kings River; that the amount of water to which the Lemoore stock is entitled is insufficient to irrigate more than one third of the ranch; that it would be a physical impossibility to distribute the Lemoore water to all the lands on the ranch, and that if such attempt were made, the amount of water delivered would be too small to be of any practical benefit to anybody; that the purchasers of the 3,720 acres of land on the east side of the Kings River, referred to in the answer of the Water Company, bought their lands knowing that they could be irrigated only from Lemoore Canal and Irrigation Company water and that they believed that their lands had a prior right to the use of the water; that a prosperous community has grown up on the east side of Kings River; and that if Lemoore water is shared with the owners of lands on the west side of the river, the tract of 3,720 acres will become barren and wholly unproductive.

The evidence in this case was taken at Hanford, before Commissioner Eshleman, on January 14, 1914, and March 16, 1914. Briefs were thereafter filed. By order of January 2, 1915, the Railroad Commission directed me to prepare, subject to the approval of all parties, the opinion and order in this case, in lieu of Commissioner Eshleman, whose term as a member of this Commission had in the meantime expired. All parties have in writing consented to this arrangement, and it now becomes my duty to present an opinion and a draft of an order in this case.

The evidence in this case shows, in part, that prior to the year 1906, Bates and Miller were the owners of a ranch in Kings County, containing 18,712.12 acres. The Kings River flows through this ranch in a southerly direction in such a way that out of some 16,037 acres of land which are irrigable from the defendant's water system, some 9,486 acres are located on the east side of the river and about 6,551 acres on the west side. This entire tract had and still continues to have riparian rights in the waters of Kings River. In addition to these waters, the owners of the tract purchased $8\frac{2}{3}$ shares of the capital stock of Lemoore Canal and Irrigation Company out of a total of 53 shares, becoming thereby entitled to about one sixth of the water of Lemoore Canal and Irrigation Company. Certain water from the Lemoore company was used for irrigating lands in this ranch on the east side of the Kings River continuously from at least 1901 to the date of the sale of the ranch by Bates and Miller to Empire Investment Company in 1905. After the ranch was sold to Empire Investment Company, this company constructed a system of canals and ditches for the purpose of

irrigating the entire ranch. It then procured the incorporation of a new company, to be known as Empire Water Company, with the intention of having this company attend to the entire water business. The Land Company sold off its land on the west side of the river, except some 1,100 acres, and all the land on the east side, except some 365 acres. About 367 acres which were sold on the east side of the river are now in litigation in suits by the Canal Company to declare the contracts forfeited. During the first few years after 1906 there seem to have been no particular difficulties in connection with the water supply, but with the advent of the dry years of 1912 and 1913, the water available for distribution was no longer sufficient to irrigate all the lands which demanded water. The land owners on the west side of the Kings River secured but very little water in 1912, and practically none in 1913, and suffered severely because of the failure of their water supply. The land owners on the east side of the river, while not securing the entire amount of water which they desired, fared much better than their neighbors on the west side, for the reason that in addition to their share of the riparian water they also secured the entire Lemoore water. The owners on the west side of the river claim that they are entitled to a ratable proportion of the Lemoore water, and hence filed the complaint in the present proceeding, for the purpose of securing an order to compel the Water Company to construct the necessary flume or siphon across the Kings River, and the subsequent delivery through the same of a ratable proportion of the Lemoore water.

This case presents two main questions:

1. Is the Water Company a public utility?
2. If so, are the complainants entitled to a delivery by the Water Company of a portion of the Lemoore water?

At the hearing, the defendant took the position that it is not a public utility. The intervenors took the same position. The defendant, however, took the further position that if this Commission should hold that it is a public utility, it would comply with any order which the Railroad Commission might make, and that if directed to distribute Lemoore water to the owners on the west side of the river, it would construct the necessary structures and deliver the water, as might be directed by this Commission. The defendant took the position that the controversy is one primarily between the land owners on the two sides of the river, and that as between them it will remain neutral.

1. Is Defendant a Public Utility?

Empire Water Company was incorporated under the laws of California on November 17, 1905. The purposes for which it was incorporated are specified in its articles, as follows:

That the purpose for which said corporation is organized is to purchase, locate, lease and in any other way acquire, hold, distribute, sell, mortgage, lease and in any other way dispose of water, water rights, as well as the stock of other water or irrigation companies, and any other means or source of water supply; to construct, maintain and operate canals, ditches, pipe lines and any other means of conveying water, reservoirs, weirs, dams and other ways and means of impounding water, water works, dams and any and all other machinery and appliances for raising, receiving, handling and distributing water, either for domestic use, for stock or for irrigation on either farming lands, farming neighborhoods, cities, towns, villages or any other place or locality; and also for the purpose of furnishing power for any use or purpose whatsoever; to purchase and otherwise acquire, hold, handle, use, sell or in any other way dispose of any property of whatsoever nature, both real and personal, and wherever the same may be situated, which may be convenient and necessary in carrying out the purposes of this corporation, and to maintain, construct and operate any kind of machinery, works, roads, bridges and all manner and means of transportation and communication which may be convenient or necessary in carrying out said purposes and the conduct of the private business of said corporation, but not for any public use or toll whatever, and to do and perform all things authorized or granted by the laws of this State to corporations.

Capital stock is authorized of a total par value of \$500,000.00, divided into 5,000 shares, of the par value of \$100.00 per share. The articles do not state that water is to be distributed to stockholders only, nor is there any limitation in the articles with reference to the territory to be served with water by the company.

The by-laws of Empire Water Company contain no provision for the distribution of water except article XI, which reads as follows:

The water belonging to and controlled by this company shall be distributed through its various ditches, canals and other waterways to the lands of the Empire Ranch in accordance with the terms and conditions of the contract executed between this company and the Empire Investment Company and recorded in the records of Kings County, California, and to such other persons and lands as the board of directors of the company shall determine in accordance with the rules and regulations for the distribution of such water as the board of directors of this company may from time to time by resolutions adopt; and the said board shall have the full power and right to adopt rules and regulations necessary for the proper and equitable handling and distribution of water to the persons entitled thereto, which said rules and regulations shall

prescribe the price or terms for the delivery of such water and the ditches or mains by which the water shall be delivered to the various lands and the manner in which the water shall be delivered from such ditches and canals to the land owners, and such other matters and regulations as the board may deem necessary.

The by-laws contain no provision limiting the delivery of water to stockholders of the corporation or to a specific tract of land. The distinguishing features usually found in the by-laws of mutual water companies are not found in these by-laws.

There is no necessary relationship whatsoever between the ownership of stock in this company and the ownership of lands in the Empire Ranch. .

Reference has already been made to deed dated January 8, 1906, from the Land Company to the Water Company and the agreement of the same date between the same companies with reference to the operation of the Water Company. It is clear from these documents that the Water Company is the owner of a system of canals and ditches for the transportation of water and that it operates the same for compensation.

Intervenors claim that the company is not a public utility on the ground that it does not own any water. While the evidence shows that with reference to the riparian waters of Kings River the Water Company is simply the agent of the land owners for the distribution of the water, acting in this respect as a common carrier for all the land owners, the Water Company became and is still the owner of the 8½ shares of the capital stock of the Lemoore Canal and Irrigation Company and of the waters represented thereby, which waters it distributes through a portion of its water system for compensation. For its services the Water Company claims the right to collect \$1.00 per acre for each acre of land under its system.

On these facts, I am of the opinion that the question whether the Water Company is or is not a public utility can be conclusively answered. Section 23 of article XII of the Constitution of California, as amended on October 10, 1911, declares that all corporations, associations and individuals therein specified, including those engaged in the production, generation, transmission, delivery and furnishing of water, either directly or indirectly, to or for the public, and every common carrier, are public utilities subject to such control and regulation by the Railroad Commission as may be provided by the legislature. The same section empowers the legislature to declare that other classes of private corporations, individuals or associations shall be public utilities, subject to like control and regulation by the Railroad Commission. Acting under the authority thus conferred, the legislature of this State

enacted chapter 14 of the laws of the extraordinary session of 1911, commonly known as the Public Utilities Act, and thereafter amended this act and also enacted chapter 80 of the Laws of 1913. Section 2c of the Public Utilities Act defines the term "water corporation" to include "every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any water system for compensation within this State."

Section 2bb of the Public Utilities Act, as amended on June 14, 1913, reads as follows:

The term "public utility," when used in this act, includes every common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger and warehouseman, where the service is performed for or the commodity delivered to the public or any portion thereof. The term "public or any portion thereof" as herein used means the public generally, or any limited portion of the public including a person, private corporation, municipality or other political subdivision of the state, for which the service is performed or to which the commodity is delivered, and whenever any common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger or warehouseman performs a service or delivers a commodity to the public or any portion thereof for which any compensation or payment whatsoever is received, such common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, wharfinger or warehouseman is hereby declared to be a public utility subject to the jurisdiction, control and regulation of the commission and the provisions of this act. Furthermore, when any person or corporation performs any service or delivers any commodity to any person or persons, private corporation or corporations, municipality or other political subdivision of the state, which in turn either directly or indirectly, mediately or immediately, perform such service or deliver such commodity to or for the public or some portion thereof, such person or persons, private corporation or corporations and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act.

Chapter 80 of the Laws of 1913 provides specifically for the regulation of water companies and for the powers and duties of the Railroad Commission with reference thereto. Section 1 of the act reads as follows:

Whenever any person, firm or private corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any water system within this state, sells, leases, rents or delivers water to any person, firm, private corporation, municipality or other political subdi-

vision of the state whatsoever, except as limited by section 2 hereof, whether under contract or otherwise, such person, firm or private corporation is a public utility, and subject to the provisions of the Public Utilities Act of this state and the jurisdiction, control and regulation of the railroad commission of the State of California.

Section 2 of the act defines the water companies which shall not be subject to the jurisdiction, control or regulation of the Railroad Commission, and reads as follows:

Whenever any private corporation or association is organized for the purpose solely of delivering water to its stockholders or members at cost, and delivers water to no one except its stockholders or members at cost, such private corporation or association is not a public utility, and is not subject to the jurisdiction, control or regulation of the railroad commission of the State of California.

Section 3 reads as follows:

Whenever any private corporation or association organized for the purpose of delivering water solely to its stockholders or members at cost does deliver water to others than its stockholders or members for compensation, such private corporation or association becomes a public utility and subject to the terms of the Public Utilities Act and the jurisdiction, control and regulation of the railroad commission of the State of California.

It would seem that under these constitutional and statutory provisions there can be no reasonable doubt that Empire Water Company is a public utility, subject to the jurisdiction of the Railroad Commission.

Intervenors, in taking a contrary position, rely on *Del Mar Water, Light and Power Company vs. Eshelman et al.*, decided by the Supreme Court of this State on April 11, 1914, 167 Cal. 666. There is nothing decided in this case in any way contrary to the conclusion here reached. The case did not refer to the constitutional and statutory provisions which must now govern the solution of the problem to which we are addressing ourselves and, as the court itself specifically pointed out on petition for rehearing, nothing said in the case has the force of decision unless concurred in by four justices. The point decided in this case is best expressed by the language of the court itself, in the opinion delivered on May 11, 1914, on petition for rehearing. This language is, in part, as follows:

The concurring opinion herein is the only one that is agreed to by the necessary number. That opinion contains the only propositions which are to be considered as decided. It does not hold that the plaintiff company is not a public utility, or that it is not engaged in distributing water for public use; it merely declares that the land of the complainant, Glass, is not, *and is not found by the Commission to be*, within the district or area, to the use of which the water owned or controlled by that company is dedicated and, therefore, that he is not entitled to demand distribution thereof to his land.

The facts of the present case are entirely different from those on which the Supreme Court thus passed.

I find that defendant is a public utility, subject to the jurisdiction of the Railroad Commission.

2. Are these complainants entitled to Lemoore water?

The remaining question to be considered is whether these complainants are entitled to Lemoore water.

Lemoore Canal and Irrigation Company was incorporated under the laws of this State on September 8, 1902. Its articles specify that it was incorporated for the purpose of acquiring, conducting and operating water ditches and canals for irrigation purposes within the counties of Fresno and Kings, and particularly to acquire, own and operate those water ditches in said counties which were known as the ditches of Lower Kings River Water Ditch Company. The company was also empowered to purchase, lease, locate, appropriate, contract concerning and otherwise acquire, sell and deal in water, water canals and water rights. The company was authorized to issue fifty-three shares of stock, of the par value of \$2,000.00 each. The articles of incorporation do not specify any particular portion of these two counties to which the distribution of water is to be confined.

Lemoore Canal and Irrigation Company succeeded to the rights of the Lower Kings River Water Ditch Company of Tulare County, which company was incorporated or attempted to be incorporated on October 16, 1873. The articles of this company do not specify any particular lands on which the company's water is to be used.

The evidence in this case contains no reference to the contents of any notice of appropriation of the waters now diverted by Lemoore Canal and Irrigation Company or its predecessors. There is nothing in the evidence to show that by any notice of appropriation or articles of incorporation or other document the use of the waters secured from the Lemoore Canal and Irrigation Company's system was limited to any particular lands in the Empire Ranch.

The history of the 8½ shares of Lemoore Canal and Irrigation Company stock now owned by the Water Company is as follows:

1. On March 31, 1902, the Lower Kings River Water Ditch Company of Tulare County, the predecessor of Lemoore Canal and Irrigation Company, sold 7½ shares of its stock to Miller, Bates and Davies. On October 25, 1902, a certificate for 2½ shares was issued to E. O. Miller, being certificate No. 76; a certificate for 2½ shares was issued to George E. Bates, being certificate No. 77; and a certificate for 2½ shares was issued to Samuel Davies, being certificate No. 78.

2. In September, 1904, Certificate No. 153 was issued by the same company to George E. Bates. This certificate was for three eighths

of a share, and represented two eighths of a share purchased by George E. Bates from Charles King on August 16, 1914, and one-eighth share purchased by Bates from Curtis and Wilson on September 7, 1904.

3. An additional two-eighths share was purchased by Bates from Stiles McLaughlin on May 15, 1904, and Certificate No. 159 was issued to Bates therefor.

4. On June 28, 1905, one half share was purchased by E. O. Miller from James Whitaker. This stock was represented by Certificate No. 130, dated February 29, 1904.

The defendant reports that each of these certificates was transferred with the Empire Ranch to the Empire Investment Company in December, 1905. The fact that these certificates were transferred with the Empire Ranch seems to be the only fact in this connection bearing on the question whether or not the water secured from the Lemoore company is appurtenant to the entire ranch. There is no evidence as to any document of transfer bearing on the question whether or not it was intended to have the water represented by this stock appurtenant to the ranch as a whole or simply to some portion thereof.

The agreement of January 8, 1906, between the Land Company and the Water Company is equally uncertain. While there is language in the agreement tending to sustain the contention of the complainants that the Lemoore water was made appurtenant to the entire ranch, one of the recitals of the agreement declares that the Water Company "owns $8\frac{1}{2}$ shares of the Lemoore Canal and Irrigation Company and the waters to which such shares are entitled, which water may be delivered and distributed through said system *to a part* of said lands for all or any of said purposes." The agreement does not state to what part of the lands the Lemoore water was to be delivered.

Both the complainants and the intervenors rely on actual use of the Lemoore water. Complainants allege that in 1910, in the month of March, quite a head of Lemoore water was turned from one of the Lemoore ditches into the Kings River, and that by means of a dam constructed by the Water Company below this point across the Kings River, this water was thence turned into the canals on the west side and that some 800 acres of land were thus irrigated from Lemoore water. The defendant and the intervenors, on the other hand, contend that this water was surplus water which was being wasted into the river and that the dam had been constructed for the purpose of diverting such water as might be flowing in the Kings River until a certain weir located lower down across the river might be repaired. One of the Water Company's ditch tenders even went so far as to testify that this Lemoore water was turned into the river by mistake. Complainants further draw attention to the fact that in December, 1909, the Water

Company began the construction of a siphon across the Kings River at such a point that it would be possible to convey Lemoore water through the same from the east to the west bank of the river. Complainants draw attention to this fact in support of their claim that the Water Company thus recognized a duty to deliver Lemoore water on the west side of the river. The Water Company, on the other hand, introduced in evidence an agreement dated August 20, 1909, between Empire Water Company and certain owners of land in the Empire Ranch on the west bank of the river, including the principal complainants in this case, in which agreement it is recited that the Water Company has the opportunity of procuring surplus or extra water which is outside of and in addition to the water which the company usually controls and conducts through its canals, and which water the Water Company is willing to sell to land owners on the west side upon receipt of adequate compensation. It is agreed that if such surplus or extra water is secured and the extra pipe lines and canals are constructed, these matters shall be considered outside of the agreement of January 8, 1906. The land owners agree that if they take any of the extra or surplus water, they will pay such reasonable rates and charges as the Water Company may prescribe. The Water Company contends that it undertook the construction of the siphon in accordance with the provisions of this agreement and that the agreement itself shows on its face that the land owners on the west side must have recognized that the Water Company was not under the obligation, apart from this agreement, of delivering Lemoore water to them. There is nothing in the record to show from what source the Water Company expected to secure the extra or surplus water or whether it actually made arrangements to secure any such water.

Complainants further showed that during the year 1912 a number of them installed a pumping plant in the Kings River and pumped from it surplus water which was wasted into the river from the Lemoore system. On the other hand, the interveners showed that for over twenty years, Lemoore water has been used, to a greater or less extent, in irrigating lands on the east side of the river. They claimed that 3,720 acres on the east side are too high to be irrigated from the riparian water and that these lands are absolutely dependent upon the Lemoore water. The interveners contend that by reason of actual user, they have secured the right to the continued use of Lemoore water and that the Water Company has no right to take the water across the river to the people on the west side.

The interveners also contend that if the Lemoore water were distributed over the entire acreage irrigated on both the east and the west

side of the river, the water would be spread out to such an extent that it would be of but little advantage to any one.

In this connection Mr. R. W. Hawley, this Commission's hydraulic engineer, testified that if the Lemoore water in the year 1910 had been prorated to all lands of the Empire Ranch, 7 feet of water in depth could have been delivered in that year. He, however, also testified that, in his opinion, but little good could be accomplished by spreading the Lemoore water in such a way as to provide but 7 foot in depth over the area. It was made clear that in a dry year and during the driest months of any year, no such supply would be available. Attention should here be drawn to the fact that at such times as Lemoore water would be available for delivery to the west side, such water would generally not be necessary for the reason that at such times riparian water in the Kings River would usually be available in sufficient quantity to meet the requirements of the west side.

As Commissioner Eshleman several times stated at the hearing, this Commission will not, if it has any discretion in the matter, direct a public utility to distribute its available water supply over such an area of land that no one will receive much good therefrom. It would be the Commission's inclination in such cases, following the suggestion of the Supreme Court in *Learitt vs. Lassen*, 157 Cal. 82, and section 5 of chapter 80 of the laws of 1913, to direct the company to supply no further consumers and to limit its water to those who have theretofore actually used it, as long as the supply is not sufficient to irrigate a larger acreage. I am convinced, on the facts of this case, that the Water Company should not be called upon to take the Lemoore water from those who have hitherto used it and compel them to share this water with the acreage on the west side which has not hitherto used the water except in the sporadic cases hereinbefore referred to. Of course, if there is surplus Lemoore water after the reasonable requirements of the east side have been met, this must be taken to the west side, if needed there, as was done in 1910. It goes without saying that the Lemoore water must be applied to as large an acreage as is consistent with reasonable service.

If during years of low supply the east side alone uses the Lemoore water and the west side secures no advantage therefrom, it is at once obvious that the east side is securing a much more favorable service than the west side and that it is unfair to the west side to be compelled to pay the same rates as those which are paid on the east side. While the pleadings in this case do not permit of a decision on the question of rates, the Commission will entertain an application either on behalf of the Water Company or on behalf of the west side users to establish more equitable rates, if either the Company or the west side users should desire to file such application.

The Commission's attention was also drawn informally in this proceeding to an alleged failure on the part of the Water Company to protect the riparian rights of the Empire Ranch. The Water Company replied, with apparently much justice, that it does not own any riparian rights; that these rights are owned by the land owners; and that it is their duty to see to it that the rights are protected. This is a matter of considerable importance and the land owners on both sides of the river, including Empire Land Company, should take such action as may be necessary to protect their rights in this respect.

Certain other matters were informally drawn to the attention of the Commission, some of which have already been adjusted. If there are matters still unadjusted they may be taken up with the Commission either informally or formally, as the complainants may be advised.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled case and the case having been submitted and being ready for decision,

It is hereby ordered as follows:

1. Whenever Empire Water Company, after serving the reasonable requirements of its consumers east of the Kings River, as specified in section 2 hereof, shall have under its control surplus or waste water from the system of Lemoore Canal and Irrigation Company, Empire Water Company shall convey said waters to the west side of Kings River for use by its consumers on the west side, if needed by them.

2. Empire Water Company shall not distribute water served from the system of Lemoore Canal and Irrigation Company to any lands to which it has not been applied during the last five years and shall do all in its power to so distribute and apply said water that whenever possible a portion of said water may be applicable for use by its consumers on the west side of Kings River.

3. If Empire Water Company or its consumers on the west side of Kings River desire to file an application for an order adjusting rates by reason of the inequality of the service as between the east side and west side consumers, this Commission will entertain such application.

4. In other respects, the complaint herein is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of March, 1915.

DECISION No. 2201.

IN THE MATTER OF THE SUPPLEMENTAL APPLICATION OF DEATH VALLEY RAILROAD COMPANY FOR AN ORDER AUTHORIZING ISSUANCE AND SALE OF CERTAIN OF ITS STOCKS AND BONDS.

Application No. 836.

Decided March 5, 1915.

Applicant authorized to issue 200 shares of its capital stock of the par value of \$100.00 per share, such stock to be sold at par, proceeds to be used in the retirement of 40 bonds of applicant of the par value of 100 pounds sterling each.

F. M. Jenifer and H. Escherich, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner.*

SECOND SUPPLEMENTAL OPINION.

This petition, filed on February 8, 1915, requests this Commission to issue an order authorizing the applicant to issue 200 shares of its capital stock of the par value of \$100.00 per share at par, and to use the proceeds from the sale of this stock for the purpose of retiring forty of its outstanding bonds of 100 English pounds sterling each, or \$487.00 each. This amounts, measured in the American standard, to \$19,480.00. A 5 per cent premium, as provided in the deed of trust, would make the amount necessary to retire the bonds, \$20,454.00. The sinking fund in this amount accrues on March 1st of this year.

This applicant owns a railway of 16.95 miles in length in Inyo County, connecting the Biddy McCarty borax mine with the Ryan Branch of the Tonopah and Tidewater Railroad. The railroad is controlled and its bonds are guaranteed by the Borax Consolidated Limited of London. It is the purpose under the present application to issue the stock to the Borax Consolidated Limited of London.

It is the intention of the applicant from time to time to refund its bonds by issues of stock, the stock to be taken by the Borax Consolidated Limited. I believe this is a desirable method of financing this matter, as this railroad depends entirely upon the borax mine, and the method proposed contemplates the gradual retirement of all of the bonds.

The applicant has asked for an order giving it authority henceforth to issue stock to retire its bonds. I believe it advisable, however, to issue the order merely for the bonds as they fall due. Subsequent orders may be issued, unless objection be raised, upon the evidence already submitted in this and the previous hearing on this railroad property.

Accordingly I submit the following form of order:

ORDER.

Death Valley Railroad Company having applied to this Commission for authority to issue 200 shares of its capital stock of the par value of

\$100.00 per share, and to use the proceeds to retire forty of its outstanding bonds of 100 pounds sterling each, or \$487.00 each, due on March 1, 1915.

And a hearing having been held, and it appearing that the purposes for which it is proposed to issue said stock are not chargeable to operating expenses or to income.

It is hereby ordered that Death Valley Railroad Company be granted authority to issue 200 shares of its capital stock of the par value of \$100.00 per share.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The stock herein authorized to be issued shall be sold at par to Borax Consolidated Limited of London.

(2) The proceeds derived from the sale of said stock shall be used to retire forty of the bonds of the face value of 100 pounds sterling each, or \$487.00 each.

(3) The authority herein granted shall apply to such stock as shall have been issued on or before December 31, 1915.

(4) Within thirty days after the stock herein authorized to be issued shall have been issued, applicant shall report such issue to this Commission with a statement of the application of the proceeds derived from the sale of said stock.

The foregoing second supplemental opinion and order are hereby approved and order filed as the second supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 6th day of March, 1915.

DECISION No. 2202.

IN THE MATTER OF THE APPLICATION OF OCEANSIDE ELECTRIC AND GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF PROMISSORY NOTES OF THE FACE VALUE OF TWELVE THOUSAND FOUR HUNDRED AND FORTY-TWO DOLLARS.

Application No. 1521.

Decided March 8, 1915.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

The Commission having, on February 24, 1915, made an order in this proceeding authorizing applicant to issue certain notes of the

aggregate face value of \$12,442.00 to refund outstanding notes, payable to the following named persons in the amounts specified:

| | |
|--|------------|
| Bank of Oceanside..... | \$2,500 00 |
| First National Bank of Oceanside..... | 1,700 00 |
| Farmers and Merchants' Bank of Long Beach..... | 5,000 00 |
| Farmers and Merchants' Bank of Long Beach..... | 1,000 00 |
| First National Bank of Oceanside..... | 1,000 00 |
| W. S. Hargreaves | 500 00 |
| Smith, Booth & Usher..... | 742 00 |

And upon certain conditions, one of which was that the notes to be issued should be issued in the same amounts and to the same payees as the notes to be refunded thereby, and it appearing that applicant desires to have the notes issued in part to parties other than the holders of the notes to be refunded, and the Commission being of the opinion that this request is reasonable,

It is hereby ordered that the notes which applicant is authorized by said order above mentioned to issue, may be issued in amounts different from, and to persons other than, those specified in the notes to be refunded; provided, that the total face value of the notes to be issued shall not exceed the total face value heretofore authorized and that in all other respects the notes shall be issued in accordance with the provisions of said order.

Dated at San Francisco, California, this 8th day of March, 1915.

DECISION No. 2203.

CITY OF REDDING

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 674.

Decided March 8, 1915.

Complainant herein having brought into question the telephone rates of defendant company in the city of Redding, admits at the hearing that it is not prepared at the present time to submit evidence supporting its contention, and requests that complaint be dismissed. Action taken accordingly.

C. H. Braynard and C. F. Kimball, for Complainant.

H. D. Pillsbury and N. R. Powley, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The city of Redding, a municipal corporation of the sixth class, by a majority vote of all qualified electors voting at an election duly

called and held on July 21, 1914, having transferred its powers of control over certain public utilities operating within the city to the Railroad Commission, filed formal complaint with the Commission on September 10, 1914, calling into question the reasonableness of the rates then in effect by the Pacific Telephone and Telegraph Company for telephone service within the city.

In answer to this complaint, the defendant has entered a general denial that its rates are unreasonably high and has asked that the complaint be dismissed and that the Commission defer the determination of reasonable rates until such time as it can bring properly before the Commission a petition for just and reasonable rates.

The case was set for hearing for March 1, 1915, at Redding. Both the Commission and the defendant prepared to proceed with the case, but at the hearing the complainant admitted that it was not so prepared and agreed that the complaint should be dismissed until such time as it could present necessary evidence.

I am of the opinion that this complaint should be dismissed and recommend the following order:

ORDER.

Complaint having been made to this Commission by the city of Redding, a municipal corporation of this state, calling into question the reasonableness of the rates for telephone exchange service in effect by the Pacific Telephone and Telegraph Company at its Redding, California, exchange, and the case having been set for hearing before the Commission, and the complainant having agreed at the hearing that the complaint should be dismissed,

It is hereby ordered that the complaint herein be and it is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of March, 1915.

DECISION No. 2204.

IN THE MATTER OF THE APPLICATION OF CHOWCHILLA PACIFIC RAILWAY COMPANY FOR AN ORDER AUTHORIZING AN ISSUE OF TEN THOUSAND DOLLARS OF THE AUTHORIZED STOCK OF SAID RAILWAY COMPANY.

Application No. 1533.

Decided March 8, 1915.

Applicant authorized to issue 100 shares of its capital stock of the par value of \$100.00 per share, such stock to be issued in lieu of stock heretofore unlawfully issued, proceeds of which were devoted to proper capital purposes.

V. S. Kidd, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

Chowchilla Pacific Railway Company was incorporated May 6, 1913, for the purpose of constructing a standard gauge railroad from Chowchilla, on the line of the Southern Pacific Railway Company in Madera County, for a distance of approximately nine miles to a point on the Chowchilla Ranch. The railroad project was conceived for the purpose of giving an outlet for the ranch properties. These ranch properties, consisting of 108,000 acres, are held by the Union Colonization Company, which in turn is controlled by the United States Farm Land Company. The railroad has been constructed at a cost of \$71,122.06 with moneys advanced by the United States Farm Land Company.

It is stated in the application that the railway extends for a distance of 8.82 miles from a point "near the Southern Pacific Railroad at foot of Robertson Boulevard in the city of Chowchilla, to near the center of the northwest quarter (N. W. $\frac{1}{4}$) of block forty-four (44) of subdivision one (1) of the Chowchilla Ranch (government section No. 33, township 10 south, range 15 east)." The construction is standard gauge, of fifty-pound new steel rails with earth ballast.

The railway is being used at this time as a construction road in connection with the development of the land project, but it is stated that it will later be operated as a regular commercial railway.

The Chowchilla Pacific Railway Company has an authorized issue of 200 shares of stock of the par value of \$100.00 per share. The applicant has issued 100 shares of this stock to its incorporators, which was paid for at par. It is now proposed, in lieu of these shares, which were issued without the authority of the Commission, to issue 100 shares of stock at par, the proceeds having been used toward the reimbursement of the United States Farm Land Company for moneys advanced.

I recommend that the application be granted and submit the following form of order:

ORDER.

Chowchilla Pacific Railway Company having applied to this Commission for authority to issue 100 shares of its capital stock of the par value of \$100.00 per share, and a hearing having been held and it appearing that the purposes for which it is desired to issue said stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Chowchilla Pacific Railway Company be granted authority and it is hereby granted authority to issue 100 shares of its capital stock of the par value of \$100.00 per share.

The authority herein given is given upon the following conditions and not otherwise:

(1) The authority herein given shall apply to stock which shall be issued in lieu of stock heretofore issued as follows, to

| | |
|--------------------|------------|
| J. A. McNeil | 40 shares |
| M. E. Forbes | 30 shares |
| W. W. Wiard | 30 shares |
| Total | 100 shares |

(2) The stock herein authorized to be issued shall be issued so as to net the applicant herein not less than the par value thereof.

(3) Chowchilla Pacific Railway Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein given shall apply to such stock as shall have been issued on or before December 31, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of March, 1915.

DECISION No. 2205.

IN THE MATTER OF THE APPLICATION OF FRANK P. CADY AND RILLA E. CADY, OWNERS OF SUSANVILLE WATER WORKS, FOR AN ORDER AUTHORIZING THE ISSUE OF A NOTE OR NOTES SECURED BY A MORTGAGE UPON SAID SUSANVILLE WATER WORKS FOR THE SUM OF TEN THOUSAND DOLLARS.

Application No. 1511.

Decided March 11, 1915.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

DEVLIN, *Commissioner*.

This Commission on February 8, 1915, having issued its order authorizing the applicants herein to issue a promissory note of the face value of \$10,000.00, payable two years after date with interest not exceeding 7 per cent per annum, and authorizing the applicants to execute a mortgage upon the property of the Susanville Water Works, and applicants now having applied to this Commission for a modification of the said order increasing the rate of interest from a minimum of 7 per cent per annum to 8 per cent per annum, and limiting the maturity of the note from two years to one year.

It is hereby ordered that the order in the above entitled matter be amended so that the note for \$10,000.00 therein authorized shall be payable not to exceed one year after date and shall bear interest at a rate not to exceed 8 per cent per annum.

In all other respects the order heretofore made in this matter (Decision No. 2144) shall remain in force and effect.

By order of the Railroad Commission.

Dated at San Francisco, California, this 11th day of March, 1915.

DECISION No. 2206.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY FOR AN ORDER TO RENEW A NOTE OF FOUR THOUSAND FOUR HUNDRED SIXTY-EIGHT DOLLARS AND SIXTY-SIX CENTS.

Application No. 1574.

Decided March 11, 1915.

Waldo S. Coleman, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

Coast Counties Gas and Electric Company, having applied to this Commission for authority to issue a promissory note to John A. Roeb-

lings Sons Company in the sum of four thousand, four hundred sixty-eight and 66/100 dollars, with interest at 6 per cent per annum, said note to be dated March 20, 1915, and to mature not to exceed six months thereafter, and a hearing having been held and it appearing that said note is to be issued to refund a note in like amount to the same payee.

And it appearing further that the proceeds derived from the note which applicant now proposes to renew or refund were used for purposes not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered that Coast Counties Gas and Electric Company be granted authority and it is hereby granted authority to issue to John A. Roeblings Sons Company its promissory note in the sum of four thousand, four hundred sixty-eight and 66/100 dollars, to be dated March 20, 1915, and to bear interest at the rate of 6 per cent per annum, said note to mature not later than March 20, 1916.

The authority herein given is given upon the following conditions and not otherwise:

1. The note herein to be issued shall be used to refund a note in like amount held by John A. Roeblings Sons Company.

2. The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

By order of the Railroad Commission.

Dated at San Francisco, California, this 11th day of March, 1915.

Decisions Nos. 2207, 2208, 2209, 2210, and 2211, grade crossings; not printed. See end of volume.

DECISION No. 2212.

SALINAS CITY

vs.

COAST VALLEYS GAS AND ELECTRIC COMPANY.

Case No. 648.

Decided March 11, 1915.

Defendant, Coast Valleys Gas and Electric Company, has in effect rates for gas service in the city of Salinas of \$1.50 per thousand cubic feet for first 2,000; \$1.25 per thousand cubic feet for next 2,000, and \$1.00 per thousand cubic feet over 4,000. These rates, complainant contends, are unduly high, and accordingly petitions the Commission to establish a more reasonable rate for such service and to establish such just and reasonable rules and regulations governing the service of defendant company as it may deem proper.

Held, After valuation of defendant's property in which allowances for development cost, paving over mains, depreciation, etc., are particularly considered, that defendant's present rates are not unduly high, and, as regards service, that though it may have been poor in the past, at present there are no just grounds for complaint; complaint dismissed.

J. H. Andresen, for Complainant.

Chickering & Gregory and *George H. Whipple*, for Defendant.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

The complaint in this case is directed against the rates charged by Coast Valleys Gas and Electric Company for artificial gas manufactured and sold by it in the city of Salinas, which rates complainant alleges to be excessive and unreasonable. The amended complaint further alleges in part that the gas supplied by defendant in Salinas is of poor and inferior quality and that it is not adequately served. The Commission is asked to fix rates at which gas shall be sold by defendant and to make such order regarding the service as may be just in the premises.

Defendant's answer to the original complaint and to the amended complaint denies that its rates for gas supplied to the inhabitants of Salinas are unreasonable or excessive and further denies that said gas is of poor and inferior quality or that it is inadequately served. Defendant asks that the complaint be dismissed.

The present rates charged by defendant for artificial gas supplied by it in the city of Salinas are as follows:

TABLE I.
Gas Rates in Salinas.

| | |
|--|-----------------------------|
| First 2,000 cubic feet per month----- | \$1.50 per 1,000 cubic feet |
| Next 2,000 cubic feet per month----- | 1.25 per 1,000 cubic feet |
| Over 4,000 cubic feet per month----- | 1.00 per 1,000 cubic feet |
| Minimum charge: \$.50 per month per meter. | |

The gas system in Salinas is one of the oldest in California, having been placed in operation some time during 1874. The subsequent history of this gas system is shown in the following table:

TABLE II.
Historical Summary of Salinas Gas System.

| No. | Name of company | Date of organization | Date of acquisition of property |
|-----|---|----------------------|---------------------------------|
| 1 | The Salinas City Gas Company----- | July 24, 1873 | Constructed |
| 2 | Salinas City Gas and Water Company----- | May 4, 1875 | *May 4, 1875 |
| 3 | Salinas City Light and Water Company----- | Sept. 29, 1896 | Oct. 12, 1896 |
| 4 | Salinas Water, Light and Power Company---- | Nov. 25, 1901 | Feb. 20, 1902 |
| 5 | Monterey County Gas and Electric Company. | July 1, 1903 | Oct. 10, 1903 |
| 6 | California Cons. Light and Power Company. | July 7, 1911 | Nov. 29, 1911 |
| 7 | Coast Valleys Gas and Electric Company----- | Mar. 18, 1912 | Mar. 19, 1912 |

*This date assumed—exact date unknown.

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The first named company (Table II) apparently commenced operation of its gas plant either during 1873 or 1874 under the terms of a gas franchise dated April 7, 1873. Subsequently the Salinas City Gas and Water Company was organized and active work was commenced on the water system. On October 1, 1888, the last named company obtained its electric franchise and shortly thereafter started construction on its plant and system for supplying electric lights in Salinas.

Valuation reports covering defendant's gas properties in Salinas were prepared for the company by Mr. F. C. Millard and for the Commission by Mr. W. J. Hammond, one of the Commission's engineers. These reports, together with a statement of book cost starting with an opening entry of \$48,185.00 in the books of the Salinas Water, Light and Power Company on February 28, 1902, and ending December 31, 1914, were introduced in evidence in this proceeding. A comparison of these statements and reports is shown in Table III.

TABLE III.
Comparison of Book Cost and Reproduction Estimate.

| Property | Book cost Coast Val- leys Gas and Electric Company December 31, 1914 | Estimate reproduction cost new (June 30, 1914) Millard | Estimated reproduction cost, Hammond | |
|---|---|--|---|--------------------------------|
| | | | New (June 30, 1914) | Depreciated (June 30, 1914) |
| Landed capital | Not segregated | \$4,937 50 | \$4,937 50 | \$4,937 50 |
| Production capital and buildings | Not segregated | 36,682 43 | 35,583 28 | 21,662 00 |
| Distribution capital | Not segregated | 65,253 74 | 66,519 40 | 32,723 00 |
| General capital, etc..... | Not segregated | 2,089 17 | 2,197 05 | 1,348 00 |
| Totals | \$97,174 30 | \$108,961 84 | \$109,237 32 | \$60,670 50 |
| Materials and supplies..... | *1,200 00 | 1,200 00 | 1,170 00 | *1,100 00 |
| Working cash capital..... | †1,713 32 | †1,713 32 | 1,713 32 | 1,713 00 |
| Totals | \$100,087 62 | \$111,875 16 | \$112,120 55 | \$63,483 50 |
| Deduct: | | | | |
| Non-operative property..... | | 872 50 | 720 16 | |
| Paving over mains and services | | 22,072 40 | 22,793 30 | |
| Junk | | 100 00 | 70 00 | |
| Balance | | \$88,830 26 | \$88,537 05 | |

*Taken from Millard's report to obtain comparison.

†Taken from Hammond's report to obtain comparison.

‡Excluding "Non-operative Property, \$720.16 Before Depreciation."

§Excluding "Paving Over Mains, \$13,591.28" and one half "Paving Over Services, \$4,961.46" before depreciating.

¶Excluding "Junk, \$70.00."

Considerable discussion arose at the hearing regarding the item of paving over mains and services. Complainant contends that the mains were laid ahead of the paving and submitted evidence as to when the various streets in Salinas were improved. The first street paving was

on Main street, where some 2,050 feet of Telford macadam was laid in 1874. Inasmuch as the original gas company was organized in July, 1873, to install its system under a franchise granted in April of that year, we may reasonably assume that the mains were as a matter of fact laid ahead of street improvements as contended by complainant. As to paving over services, it is unlikely that all services were installed by defendant on unimproved streets. However, it is not reasonable to assume, in view of the fact that defendant's business has increased very slowly, that a very large number of services necessitated the removal and replacement of pavement of any character. The allowance of \$4,961.46 made by Mr. Hammond for paving in his summary of depreciated reproduction cost is undoubtedly ample to cover all expenditures made by defendant for all paving removed and replaced by it in Salinas.

In obtaining the book cost defendant has started with the opening entry hereinbefore referred to and added the additional capital installed each year, as shown by the books of the several companies since 1902. Whether or not deductions were properly made for replacements during this period is not clear, nor is the source of the entry of \$48,185.00 known further than that it is composed of the following items:

TABLE IV.
Original Book Entry, February 28, 1902.

| | |
|-------------------------------------|-------------|
| Plant ----- | \$31,433 61 |
| Meters ----- | 2,333 33 |
| Mains and services ----- | 10,277 12 |
| Sub-total ----- | \$44,044 06 |
| Proportion of general capital ----- | 4,141 38 |
| Total ----- | \$48,185 44 |

Since February 28, 1902, the plant account has been increased to \$88,606.47 and the proportion of general capital to \$8,567.83, or a total of \$97,174.30, and in order to make the book cost as shown in Table III comparable with the estimated cost to reproduce new, it is necessary to take the book cost less "Proportion of general capital, \$8,567.83" and add an amount to cover the general capital included in the reproduction reports.

After making the corrections noted above, we have the following comparison of book cost and estimated reproduction cost covering the tangible property of defendant including "Material and supplies" and "Working cash capital."

TABLE V.

Comparison of Book Cost and Estimated Reproduction Cost, as of June 30, 1914.

| Item | Coast Valleys Gas and Electric Company | Millard | Hammond |
|---|--|-------------|-----------------|
| Book cost (a), or estimated historical reproduction cost (b)..... | (a) *\$93,716 84 | No estimate | (b) \$93,498 51 |
| Estimated reproduction cost new as of June 30, 1914..... | | †110,902 16 | 111,330 39 |
| Depreciated historical reproduction cost or "present value"..... | | No estimate | 63,483 50 |
| Equivalent present condition..... | | | 67.90 per cent |

*Including "Materials and Supplies, \$1,200.00" and "Working Cash Capital, \$1,713.32," but substituting for "Proportion of General Capital, \$8,567.83," the item "General Capital, \$2,197.65."

†Including "Working Cash Capital, \$1,713.32."

The estimated depreciated reproduction cost or so-called "Present value" shown in Table V, is based on the usual or ordinary life tables applicable to property of this character, and does not appear to conform entirely to the present condition of certain elements of the plant as revealed by actual inspection. That there should be a somewhat wide discrepancy between the observed condition of any structural unit and the theoretical condition per cent of that unit as derived from calculations based on life tables, is not surprising, since life tables involve mere approximations of the time which will elapse before ultimate replacement will or may be necessary, and usually consider neither the adequacy of maintenance expenditures nor the effect of local soil, climatic or other conditions which may greatly affect the life of any plant unit. Without attempting to justify the applicability of arbitrary life tables to any particular case, I desire to call attention to the apparent confusion of the terms "present value," based on the actual present condition, and "efficiency," which is ordinarily determined by the ability of any unit to perform the service or work required of it at a given time. Obviously a certain pipe may be operating at 100 per cent present efficiency as compared with a new and perfect pipe of the same kind, and at the same time its actual condition per cent, and consequently its value, may be practically nil, due to physical deterioration which may, at any moment, require its replacement. This statement is true, to a greater or lesser degree, concerning practically every element going to make up the completed and operating plant. Defendant maintains that its Salinas gas plant and system are 100 per cent efficient, and by this I understand that it is the contention of defendant that the plant is performing the service required of it as well as would a new plant of the same general character. There

has been, of course, some deterioration in the physical condition of the various plant units, and this deterioration must affect the present or remaining value of those units. For example, the gas mains which were laid in Salinas forty years ago, can not reasonably be assumed to have a remaining life equal to the total life of the same character of mains laid today, and consequently can not have the same value. Considering the matter from all points of view, however, I am of the opinion that Mr. Hammond's estimate of depreciated reproduction cost is too low, and that the present condition per cent of the physical property less real estate is not less than 80 per cent.

Defendant claims an organization expense of \$19,100.00 from the organization of the Salinas Water, Light and Power Company in September, 1896, to the present time, and while it may be that this expense was actually incurred by defendant and its predecessors, it is not clear by what reasoning these successive organizations and consolidations can be assumed to add value to the present plant. Undoubtedly the Salinas City Gas Company in 1873 and the Salinas City Gas and Water Company in 1875 also had organization expenses which upon the same theory should also be included. It does not appear to me to be reasonable that the present gas plant at Salinas, after seven successive corporations have owned the property, is any more valuable than it would be if the original company was still the owner.

Evidence bearing on development cost has been introduced by defendant and upon the theory adopted, which is that of capitalizing the estimated or book showing of deferred return from February, 1902, to January 1, 1915, and adding the organization expense above referred to, the value of the property as of the last named date would be \$162,570.00, or about 45 per cent more than the cost to reproduce the property new, including paying over mains and services. In considering evidence of this nature it is necessary to consider the question of what constitutes a proper and reasonable development period, and it would seem that if a property has continuously lost money during a period of over forty years, that at the end of that time its actual value would be very much less than the cost to reproduce new. At the time of the opening entry on the books of the Salinas Water, Light and Power Company, February 28, 1902, the property was twenty-eight or twenty-nine years old, and should have long since passed the period of development.

The expenses of operation during the year 1914 are reported by defendant as follows:

TABLE VI.

Expenses Year 1914.

| | |
|--|-------------|
| (Statement submitted by Coast Valleys Gas and Electric Company.) | |
| Production expense ----- | \$7,596 38 |
| Distribution expense ----- | 633 96 |
| Commercial expense (prorated) ----- | 788 55 |
| General and miscellaneous expense (prorated) ----- | 2,277 56 |
| Total ----- | \$11,296 45 |
| Taxes ----- | 681 24 |
| Depreciation ----- | 2,936 21 |
| Proportion unamortized bond discount ----- | 52 76 |
| Total ----- | \$14,966 66 |

In comparing the revenues and expenses of defendant and its predecessors during the period of eleven years previous to the year 1914, it is found that the average annual revenue from 1903 to 1908 inclusive, was \$14,362.33, and the average expense during the same period was \$7,131.50. During the next six years the average revenue was \$14,589.66, and the average annual expense was \$11,447.50. There appears to be no explanation for the fact that the average expense for the second six-year period should increase over 60 per cent, while the average revenue increased less than 2 per cent. Equally inexplicable is the fact that for 1904 and 1905 the revenue was \$16,815.00 and \$15,296.00, and the expenses \$7,552.00 and \$5,759.00 respectively, while nine years later during 1913 and 1914 the revenue was \$14,631.00 and \$14,810.00 and the expenses \$13,078.00 and \$12,031.00, respectively.

In view of the fact that the probable increase in defendant's business in Salinas will not be rapid, and considering the further fact that the price which defendant will pay for fuel oil during 1915 is in excess of that paid during the previous year, it would seem that the present rates now charged for gas in Salinas are neither excessive nor unreasonable.

With regard to the question of the quality and adequacy of the service in Salinas, while there may have been just grounds for complaint in the past, the evidence, which is borne out by investigations made by the Commission's engineers, shows the present service to be good and the quality of gas at least equal to the average in California.

In view of all the evidence, I find that the city of Salinas has at this time no just grounds for complaint either as to rates charged by defendant for gas or as to the quality of the gas or adequacy of the supply, and I therefore recommend that the complaint be dismissed.

I submit the following form of order:

ORDER.

Public hearing having been held in the above entitled case and the same having been submitted and being now ready for decision,

It is hereby ordered that the complaint in the above entitled proceeding be and the same is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of March, 1915.

DECISION No. 2213.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE AND SELL CERTAIN DEBENTURES AND TO ISSUE STOCK.

Application No. 1560.

Decided March 11, 1915.

Applicant, desiring to retire outstanding debentures and specified notes and to provide for certain necessary capital expenditures, applies for permission to issue \$2,500,000.00 face value of five-year 6 per cent debentures to be sold at not less than 95, also for authorization to issue 27,500 shares of its capital stock of the par value of \$100.00 per share, such stock to be issued only for the purposes of discharging the debentures herein petitioned for on a basis of eleven shares of stock for \$1,000.00, face value of debentures, proceeds of such debentures to be used to refund debentures and notes at present outstanding of the face value of \$1,928,890.28, to reimburse applicant's treasury for capital expenditures made in the sum of \$403,109.72, the balance for unspecified additions and betterments. Application granted, provided that the stock herein authorized shall be used only for the purposes above outlined and that no portion of the proceeds of such debentures shall be used for additions and betterments until detailed estimates of such improvements shall have been filed and approved by the Commission.

Harry J. Bauer, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, Commissioner.

This is an application by Southern California Edison Company for authority to execute a debenture agreement with Los Angeles Trust and Savings Bank as trustee, and to issue under the terms of said agreement \$2,500,000.00 face value of debentures. The applicant petitions also for authority to issue 27,500 shares of its common capital stock of the par value of \$100.00 per share to refund the \$2,500,000.00 of debentures. The applicant proposes to execute the debenture agreement with Los Angeles Trust and Savings Bank as

trustee, to be dated March 15, 1915, and to provide for a total issue of \$5,000,000.00 of 6 per cent debentures maturing March 15, 1920. It is proposed that these debentures shall be redeemable on any interest day at a premium of 1 per cent; that they shall be convertible into common stock at the option of the holder on the basis of eleven shares of common stock for one debenture of the face value of \$1,000.00.

The agreement providing for the issue of debentures lists the purposes for which they may be issued as follows:

| | |
|--|----------------|
| To refund an outstanding issue of debentures of like amount. | \$332,000 00 |
| To discharge notes and to reimburse the applicant for capital expenditures prior to December 31, 1914. | 2,000,000 00 |
| For additions and betterments subsequent to December 31, 1914. | 2,668,000 00 |
| Total | \$5,000,000 00 |

Southern California Edison Company asks for authority to sell the debentures at not less than 95 per cent of the par value thereof. At 95 per cent the interest rate would be approximately 7 per cent, but the applicant expects to obtain a better price. If the debentures are sold at 95 and converted into stock on the basis of eleven shares for one debenture, the stock would go out at approximately \$86.36 per share. It is stated by the applicant that it had intended to issue capital stock direct, but that the market was not opportune, and it believed it better policy to issue the debentures at this time in the expectation that they will be ultimately converted into stock.

Southern California Edison Company is in the business of generating and distributing electricity for light, heat and power, and of manufacturing and distributing gas in the counties of Kern, Santa Barbara, Ventura, Los Angeles, Orange, Riverside and San Bernardino. The applicant has an authorized issue of 40,000 shares of preferred stock of the par value of \$100.00 per share, all outstanding, and an authorized issue of 260,000 shares of common stock, of which 104,000 shares are outstanding of the par value of \$100.00 per share.

The preferred stock has a preference of 5 per cent per annum, which is cumulative, and no dividends may be paid on common stock until after 5 per cent has been paid on the preferred stock. The preferred stock is entitled to participate ratably with the common stock in any dividends declared in excess of 5 per cent per annum on the entire capital stock. The preferred stock also has a preference as to assets.

The applicant reports:

| | |
|--|-----------------|
| Bonds outstanding in the hands of the public as of December 31, 1914, in the sum of. | \$16,462,000 00 |
| Debentures outstanding in the sum of. | 332,000 00 |
| Notes payable | 1,596,890 28 |
| Accounts, etc., payable | 373,644 27 |
| Total indebtedness | \$18,764,534 55 |

The applicant estimates the value of its physical properties in the sum of \$28,164,853.24.

An appraisal of a large proportion of the properties of Southern California Edison Company is now being made by this Commission in connection with other cases now pending. I do not believe it is necessary, however, to suspend a decision in this matter until that appraisal shall have been completed. No finding of value herein will be made.

For the calendar year 1914, Southern California Edison Company submitted the following income account:

Electric Operations:

| | |
|--------------------------|----------------|
| Operating revenues | \$4,161,807 54 |
| Operating expenses | 2,740,795 39 |

| | |
|----------------------------|----------------|
| Net operating revenue..... | \$1,721,012 15 |
|----------------------------|----------------|

Gas Operations:

| | |
|--------------------------|--------------|
| Operating revenue | \$294,824 15 |
| Operating expenses | 260,577 60 |

| | |
|----------------------------|-----------|
| Net operating revenue..... | 34,246 55 |
|----------------------------|-----------|

| | |
|-----------------------------------|----------------|
| Total net operating revenue | \$1,755,258 70 |
|-----------------------------------|----------------|

| | |
|--|------------|
| Miscellaneous rent revenues (electric) | \$4,456 54 |
| Interest revenues on funded debt owned..... | 4,036 43 |
| Miscellaneous interest revenues..... | 46,859 15 |
| Dividend revenues | 38,375 00 |
| Sinking and reserve fund accretions..... | 4,543 31 |
| Miscellaneous non-operating revenues..... | 5,762 38 |

| | |
|------------------------------------|------------|
| Total non-operating revenues | 104,032 81 |
|------------------------------------|------------|

| | |
|------------------------------|----------------|
| Gross corporate income | \$1,859,291 51 |
|------------------------------|----------------|

Deductions.

| | |
|--|-------------|
| Uncollectible bills | \$30,791 14 |
| Rent expenses | 147 06 |
| Miscellaneous non-operating expenses..... | 4,690 03 |
| Non-operating taxes | 686 49 |
| Interest accrued on funded debt | 814,826 95 |
| Other interest deductions | 59,461 01 |
| Rent | 683 71 |
| Amortization of debt discount and expense..... | 17,038 65 |

| | |
|-------------------------------------|------------|
| Total miscellaneous deductions..... | 928,325 04 |
|-------------------------------------|------------|

| | |
|---------------|--------------|
| Balance | \$930,966 47 |
|---------------|--------------|

Included in the operating expenses is a general depreciation charge of \$658,310.80.

From the surplus of \$930,966.47, dividends were paid in the sum of \$54,000.00.

The applicant also submits a balance sheet stating its assets and liabilities as of December 31, 1914, as follows:

| Assets. | |
|---|------------------------|
| Total fixed capital | \$30,792,758 64 |
| Total cash and deposits | 408,358 41 |
| Notes receivable | 424,801 83 |
| Total accounts receivable | 644,187 54 |
| Interest and dividends receivable | 5,316 68 |
| Total investments | 975,507 49 |
| Materials and supplies | 519,481 79 |
| Sinking funds | 250,371 19 |
| Treasury securities | 518,000 00 |
| Total prepaid expenses | 293,118 75 |
| Total unamortized discount on securities and expenses | 1,287,590 94 |
| Other suspense | 1,441 72 |
| Construction work in progress | 428,663 88 |
| Total assets | \$36,549,598 86 |
| Liabilities. | |
| Capital stock | \$14,400,000 00 |
| Funded debt | 17,322,000 00 |
| Notes payable | 2,050,000 00 |
| Total accounts payable | 302,084 47 |
| Interest accrued | 66,444 67 |
| Taxes accrued | 5,115 13 |
| Reserve for accrued depreciation | 2,142,748 82 |
| Casualty and insurance reserves | 14,763 83 |
| Reserve for uncollectible bills | 15,000 00 |
| Corporate surplus unappropriated | 230,941 94 |
| Total liabilities | \$36,549,598 86 |

The applicant has not submitted a complete copy of its proposed agreement with Los Angeles Trust and Savings Bank of Los Angeles under which the debentures are to be issued, but has presented a partial draft. A preliminary order may be issued at this time, which can be made final by a supplemental order, when this Commission has had an opportunity to pass upon the completed copy of the proposed agreement.

I believe the applicant should be authorized to issue the debentures as prayed for. I have been somewhat uncertain as to the common stock which petitioner desires to issue, as this Commission is at this time without full information as to the asset value of this common stock. As this stock, however, is merely to be made available for such debenture holders as may elect to take it in substitution for their securities, I am not disposed to withhold a recommendation that the authorization be granted. There can be no doubt of a very substantial equity behind the debentures. Now, if these prospective debenture holders desire to take the junior security, not so well fortified as to assets, with the hope of an increased compensation in dividends,

I am inclined to believe that they should be permitted to do so. This is not, therefore, a direct authorization for the issue of stock, but rather an authorization which will permit the holders of one class of this applicant's securities, if they so desire, to transfer themselves into the holders of another class of this applicant's securities. The conversion is not compulsory. It is at the option of the debenture holder. The authorization in this matter will merely make the common stock available to him in case he desires to avail himself of the privilege of conversion.

In this regard, I have not attempted to find the value of this applicant's properties and, therefore, have reached no conclusion as to the values that lie back of the common stock of this company. It is well known, and perhaps should be better known, that common stock of most corporations—public utility or otherwise—partakes of a speculative character. The common stocks of corporations which are available for public purchase are rarely, if ever, wholly investment securities, and this speculative aspect should be kept in mind by security holders in connection with any authorization which may be given by this Commission for the issue of common stock. Of course, every security has its speculative attribute, but this feature is more predominant than elsewhere in common stock issues.

Accordingly I recommend the following form of order:

ORDER.

Southern California Edison Company having applied to this Commission for authority to issue and sell \$2,500,000.00 of its five-year 6 per cent debentures and to issue 27,500 shares of its common capital stock of the par value of \$100.00 per share, as set forth in the preceding opinion, and a hearing having been held and it appearing that the purposes for which it is proposed to issue said debentures and said stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Southern California Edison Company be granted authority and is hereby granted authority to issue and sell \$2,500,000.00 face value of its five-year 6 per cent debentures under its proposed agreement with Los Angeles Trust and Savings Bank, trustee, to be dated March 15, 1915.

It is further ordered that Southern California Edison Company be granted authority and is hereby granted authority to issue 27,500 shares of its common capital stock of the par value of \$100.00 per share.

The authority herein given to issue said debentures and said stock is given upon the following conditions and not otherwise:

1. The debentures herein authorized to be issued shall be sold so as to net not less than 95 per cent of the par value thereof plus accrued interest thereon.

2. The proceeds derived from the sale of said debentures shall be used for the following purposes and not otherwise:

| | | | | |
|--|----------|----------|----------------|----------------|
| (a) For the payment, retirement or redemption of an outstanding issue of \$332,000.00 of applicant's debentures..... | | | | \$332,000 00 |
| (b) For the payment of applicant's notes as follows: | | | | |
| | Favor of | Date | Amount | Date due |
| Pacific Mutual Life Insurance Co.... | | 6- 1-13 | \$9,500 00 | 6- 2-13 |
| Pacific Mutual Life Insurance Co.... | | 7- 5-13 | 16,000 00 | 7- 6-13 |
| Harris Trust and Savings Bank.... | | 5-26-14 | 50,000 00 | 5-27-14 |
| Ourselves | | 6-25-14 | 104,390 28 | 1-25-15 |
| | | | | (Balance) |
| Ourselves | | 6-25-14 | 200,000 00 | 2-25-15 |
| Harris Trust and Savings Bank.... | | 8-20-14 | 50,000 00 | 8-21-14 |
| Ourselves | | 7-31-14 | 10,000 00 | 2- 1-15 |
| Edison Lamp Works of General Electric Co. | | 10-20-11 | 5,000 00 | 2-20-15 |
| General Electric Co..... | | 10-20-14 | 45,000 00 | 2-20-15 |
| Ourselves | | 7-31-14 | 75,000 00 | 2- 1-15 |
| Ourselves | | 9-19-14 | 25,000 00 | 3-19-15 |
| Ourselves | | 10-14-14 | 20,000 00 | 3-19-15 |
| Ourselves | | 10-21-14 | 55,000 00 | 4-21-15 |
| First National Bank, Van Nuys..... | | 11- 7-14 | 2,000 00 | 11- 7-15 |
| Ourselves | | 10-21-14 | 70,000 00 | 4-21-15 |
| Ourselves | | 11-18-14 | 110,000 00 | 3-25-15 |
| Ourselves | | 11-20-14 | 100,000 00 | 4-20-15 |
| Ourselves | | 11-20-14 | 100,000 00 | 5-20-15 |
| Bankers Trust Co..... | | 12- 5-14 | 100,000 00 | 6- 5-15 |
| Bankers Trust Co..... | | 12-14-14 | 100,000 00 | 6-14-15 |
| Ourselves | | 12-15-14 | 125,000 00 | 5-17-15 |
| Bankers Trust Co..... | | 12-21-14 | 100,000 00 | 6-21-15 |
| Ourselves | | 12-15-14 | 125,000 00 | 6-15-15 |
| Total | | | \$1,596,890 28 | 1,596,890 28 |
| (c) For the reimbursement of expenditures for capital account made from income..... | | | | 403,109 72 |
| (d) For unspecified additions and betterments..... | | | | 168,000 00 |
| Total | | | | \$2,500,000 00 |

3. The debentures herein authorized to be issued shall be issued only after this Commission shall have approved applicant's agreement with Los Angeles Trust and Savings Bank, trustee, under which the debentures herein authorized are to be issued.

4. The debentures herein authorized in the sum of \$168,000.00 for unspecified additions and betterments shall be issued only after this Commission shall have issued a supplemental order approving the purposes to which said \$168,000.00 of debentures are to be applied.

5. The 27,500 shares of common capital stock herein authorized to be issued shall be issued only for the purposes of taking up or refunding the issue of \$2,500,000.00 of debentures herein authorized, on the basis of eleven shares of stock for one debenture of the face value of \$1,000.00, said common stock to be issued only in direct exchange for said debentures.

tures as may be specifically provided in the trust agreement hereinbefore referred to between the applicant and Los Angeles Trust and Savings Bank, trustee, to be dated March 15, 1915.

6. The authorization herein granted to issue stock in exchange for said debentures shall not be binding upon this Commission or other tribunal as indicative of a finding of value of this applicant's property, or any part thereof by this Commission—it being specifically provided as a condition of the order herein that no finding of value has been made of applicant's property, or any part thereof, or of the asset value of the stock herein authorized to be issued, said stock being authorized (as stated in the foregoing opinion) for the purpose of permitting such debenture holders of this applicant as may elect to convert said debentures into stock.

7. Southern California Edison Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the debentures and stocks herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said debentures and stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

8. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

9. The authority herein given to issue said debentures shall apply only to such debentures as shall have been issued on or before December 31, 1915.

10. The authority herein given to issue said common stock shall apply to the issue of such common stock as shall have been issued on or before March 15, 1920.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of March, 1915.

DECISION No. 2214.

CARL F. RAAB ET AL.

vs.

THE SOUTHERN COUNTIES GAS COMPANY.

Case No. 726.

Decided March 11, 1915.

Complainants attack the gas rates of defendant company in the unincorporated town of El Monte, contending that such rates are unduly high, basing such contention on comparisons with rates for similar service in adjacent districts, and it appearing that such other districts receive either natural gas or a mixture of artificial and natural gas, and in other instances the density of population justifies a lower rate, together with a consideration of the valuation of defendant's plant serving El Monte, a reduction in rates is not justified; complaint accordingly dismissed.

W. E. Ferguson, for Complainants.

Wilson & Wilson, by Le Roy M. Edwards, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

In this case complaint is made by Carl F. Raab and twenty-five other persons residing in or adjacent to the unincorporated town of El Monte in Los Angeles County against The Southern Counties Gas Company.

The complaint alleges in effect that the rates charged by defendant for gas distributed and sold by it in and adjacent to El Monte are unjust and excessive, and this Commission is requested to reduce said rates to those which it finds to be reasonable.

Defendant in its answer denies that its rates are either unjust or excessive and asks that the complaint be dismissed.

Southern Counties Gas Company of California, referred to in the complaint as The Southern Counties Gas Company, owns and operates a gas manufacturing plant in Monrovia, distribution systems in Monrovia, Sierra Madre and Arcadia, and in the unincorporated territory in and adjacent to South Santa Anita and El Monte, and a high pressure transmission line connecting these communities. In addition to the Monrovia system, referred to above and a portion of which is involved in this case, defendant owns and operates a gas manufacturing plant in Covina, which supplies that city, Glendora, Azusa and intervening territory, an artificial gas plant and system in Whittier, and a high pressure transmission system supplying natural gas to defendant's distribution systems in Santa Ana, Orange, Anaheim, Fullerton, Placentia and Garden Grove.

The rates charged by defendant in the several communities supplied by it are as follows:

TABLE I.**Monrovia System (Artificial Gas).**

| | |
|-----------------------------------|----------------------|
| 1. City of Monrovia (Inc.) | \$1.25 per M cu. ft. |
| 2. City of Sierra Madre (Inc.) | 1.25 per M cu. ft. |
| 3. City of Arcadia (Inc.) | 1.35 per M cu. ft. |
| 4. South Santa Anita (Uninc.) | 1.35 per M cu. ft. |
| 5. El Monte (Uninc.) | 1.35 per M cu. ft. |
| 6. Other unincorporated territory | 1.35 per M cu. ft. |

When bill amounts to \$10.00 or over, the rate in each case is \$1.00 per M.

Minimum monthly charge: \$1.00 per month.

Covina System (Artificial Gas).

| | |
|-----------------------------|----------------------|
| 1. City of Covina (Inc.) | \$1.35 per M cu. ft. |
| 2. City of Glendora (Inc.) | 1.35 per M cu. ft. |
| 3. City of Azusa (Inc.) | 1.35 per M cu. ft. |
| 4. Unincorporated territory | 1.35 per M cu. ft. |

Minimum charge: \$1.00 per month.

Whittier System (Artificial Gas).

| | |
|----------------------------|----------------------|
| 1. City of Whittier (Inc.) | \$1.20 per M cu. ft. |
|----------------------------|----------------------|

Minimum charge: \$1.00 per month.

Santa Ana System (Natural Gas).

| | |
|-----------------------------------|----------------------|
| 1. City of Santa Ana (Inc.) | \$0.75 per M cu. ft. |
| 2. City of Orange (Inc.) | .75 per M cu. ft. |
| 3. City of Fullerton (Inc.) | .75 per M cu. ft. |
| 4. Placentia (Uninc.) | 1.00 per M cu. ft. |
| 5. Garden Grove (Uninc.) | 1.00 per M cu. ft. |
| 6. Other unincorporated territory | 1.00 per M cu. ft. |

Gas is charged for on "block" schedules varying from those given in above table to 30 cents per M cu. ft. according to amount used.

Minimum charge:

Incorporated territory ----- \$0.50 per month

Unincorporated territory ----- 1.00 per month

The transmission line from Monrovia to El Monte was completed about four years ago at which time gas was sold to consumers in that community at a rate of \$1.50 per thousand cubic feet. On November 1, 1912, defendant made a voluntary reduction of 15 cents per thousand cubic feet in its rate for artificial gas supplied in and adjacent to El Monte, and this rate of \$1.35 was in effect at the time the complaint was filed in this case.

Defendant submitted a statement of book cost of its property showing a segregation of capital to El Monte on the basis of gas sold. An inventory and valuation report prepared by Mr. W. J. Hammond was also introduced in evidence. A comparison of the book cost and repro-

duction cost, also showing these costs less the estimated accrued depreciation, is given in the following table:

TABLE II.
Comparison of Book Cost and Reproduction Estimates.

| | Southern Counties Gas Company | | Commission | |
|---|-------------------------------|---|---|-------------------------------------|
| | Book cost Dec. 31, 1914 | Book cost less accrued depreciation | Reproduction cost new Dec. 31, 1914 | Depreciated reproduction cost |
| Production capital (Monrovia): | | | | |
| Landed ----- | \$3,000 00 | \$3,000 00 | \$4,000 00 | \$4,000 00 |
| Non-landed ----- | 53,861 36 | 51,168 29 | 59,240 00 | 47,878 00 |
| Totals ----- | \$56,861 36 | \$54,168 29 | \$63,240 00 | \$51,878 00 |
| Transmission capital (Monrovia-El Monte): | | | | |
| Monrovia ----- | \$2,364 50 | \$2,246 28 | | |
| El Monte, etc. ----- | \$14,324 20 | 13,007 99 | | |
| Totals ----- | \$16,688 70 | \$15,854 27 | \$18,691 00 | \$16,199 00 |
| Distribution capital: | | | | |
| El Monte ----- | \$4,194 91 | \$3,985 16 | \$4,388 00 | \$3,651 00 |
| General capital: | | | | |
| Monrovia ----- | \$3,085 00 | \$2,930 75 | \$4,111 00 | \$2,770 00 |
| Los Angeles ----- | \$2,518 90 | 2,121 46 | | |
| Totals ----- | \$5,634 90 | \$5,352 21 | \$4,111 00 | \$2,770 00 |
| Materials and supplies: | | | | |
| Totals ----- | | | \$1,864 00 | \$1,864 00 |

NOTE—(1) and (3) 7.56 per cent chargeable to El Monte.
(2) 53.1 per cent chargeable to El Monte.
(4) 1.55 per cent chargeable to El Monte.

In addition to the tangible fixed capital shown in Table II, the item "Materials and Supplies, \$1,864.00," as shown in Mr. Hammond's report, should be included in the defendant's book cost, 7.56 per cent of which, according to the theory of the company, is chargeable to El Monte. Defendant further contends that it has had an organization expense of \$21,101.82, 2.04 per cent of which would be chargeable to El Monte on the investment basis, and a development expense of \$78.56.

The operating revenue, expenses of defendant for the entire Monrovia

district, and the amount of gas sold are shown in the following table, together with defendant's segregation to El Monte:

TABLE III.
Revenue, Expense and Gas Sales.

| | Monrovia district | | El Monte | |
|--|-------------------|-------------|------------|------------|
| | 1913 | 1914 | 1913 | 1914 |
| Revenue ----- | \$51,031 60 | \$51,396 91 | \$3,741 10 | \$1,124 43 |
| Expense (not including depreciation) ----- | 29,356 80 | 27,213 71 | 2,840 36 | 3,087 42 |
| Gas sales (cubic feet)----- | 41,376,100 | 41,610,300 | 2,758,300 | 3,145,860 |
| Revenue per 1,000 cubic feet----- | \$1.233 | \$1.235 | \$1.356 | \$1.311 |

Complainants allege that defendant is charging a higher rate in El Monte and the Monrovia district than in the Anaheim district and a higher rate than is charged by other companies operating in adjoining territory. While it is true that lower rates prevail in other territory supplied by defendant and that adjacent territory, supplied by other utilities, are enjoying lower rates than are paid in El Monte, complainants have failed entirely to recognize the fact that in the Anaheim district defendant is distributing natural gas which is purchased at a low cost from the Petroleum Development Company, operating in the Brea Canyon and Olinda fields. A comparison of rates charged in El Monte with those in San Gabriel, Alhambra and points north and west, gives no indication of a proper rate to be charged by defendant under the conditions prevailing in the Monrovia district. San Gabriel is supplied by the Los Angeles Gas and Electric Company with a mixed natural and artificial gas at a low rate, made possible only by the large operations of this utility and the lessened cost of production due to the large mixture of natural gas with the artificial product.

Considerable discussion arose at the hearing in regard to the difference in rates charged by defendant in Monrovia and Sierra Madre and those prevailing in Arcadia, South Santa Anita and El Monte, but when the relative size of the several communities are considered, and the lower cost of distribution in Monrovia and Sierra Madre resulting from a greater density of population in these cities, the difference in the rates charged appear to be justified.

After a careful consideration of the entire matter, I am of the opinion that complainants have no just cause for complaint as to the rates

charged by defendant for gas supplied by it in El Monte, and recommend that the complaint in this case be dismissed without prejudice.

I submit the following form of order:

ORDER.

Public hearing having been held in the above entitled case and the same having been submitted and being now ready for decision,

It is hereby ordered that the complaint in the above entitled proceeding be and the same is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of March, 1915.

DECISION No. 2215.

IN THE MATTER OF THE APPLICATION OF LASSEN ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF A NOTE OR NOTES SECURED BY MORTGAGE ON ALL ITS PROPERTIES FOR THE SUM OF NINE THOUSAND FIVE HUNDRED DOLLARS.

Application No. 1580.

Decided March 12, 1915.

Applicant authorized to issue its note or notes to a total amount of not to exceed \$9,500.00 and execute a mortgage covering its property as security therefor, such notes to be issued only in renewal of notes in a like amount now due.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application by Lassen Electric Company, owning and operating an electric light and power system in the town of Susanville and vicinity, to issue a note or notes in the sum of \$9,500.00 to the Bank of Lassen, and to execute a mortgage on its properties as security for said note or notes.

Applicant has heretofore issued to the Bank of Lassen three notes in the sum of \$2,500.00 and one note in the sum of \$2,000.00, all dated March 14, 1911, said notes being payable one day after date and bearing an interest rate of 7 per cent per annum, and as security for said notes applicant executed to the Bank of Lassen a mortgage upon its properties.

It is now stated by the applicant that these notes will outlaw on March 14, 1915. Authority is therefore requested to issue a new note or notes to the Bank of Lassen in the sum of \$9,500.00, and to execute a new mortgage covering the same properties.

This is merely a refunding of an existing indebtedness and the execution of a mortgage in the same form as the mortgage which now secures this indebtedness.

The applicant has submitted its annual report for the calendar year 1914, showing earnings as follows:

| | |
|---|-------------|
| Operating revenue ----- | \$14,032 82 |
| Operating expenses ----- | 10,084 53 |
| Net operating revenue ----- | \$3,948 29 |
| Adjustments for interest, etc., resulted in a surplus for the year of ----- | \$2,284 31 |
| The applicant reports an outstanding indebtedness in a total sum of ----- | \$23,474 25 |

Applicant has an outstanding issue of 250 shares of stock of the par value of \$100.00 per share, or a total par value of \$25,000.00. A large part of its indebtedness is held by its stockholders, or members of their families.

In view of all the circumstances of this case, I recommend that the application be granted and submit the following form of order:

ORDER.

Lassen Electric Company having applied to this Commission for authority to issue its note or notes in the total sum of \$9,500.00 to the Bank of Lassen and to execute a mortgage of its properties to secure its indebtedness, and a hearing having been held and it appearing that the purposes for which it is desired to issue said note or notes are not in whole or in part reasonably chargeable to operating expenses or income,

It is hereby ordered that Lassen Electric Company be granted authority and is hereby granted authority to issue its note or notes to the Bank of Lassen in a total sum of \$9,500.00.

It is further ordered that Lassen Electric Company be granted authority and is hereby granted authority to execute a mortgage of its properties to the Bank of Lassen to secure said indebtedness of \$9,500.00, said mortgage to be substantially in accordance with the form of mortgage filed with this Commission as Exhibit 2.

The authority herein granted to the applicant to issue said note or notes is granted upon the following conditions and not otherwise:

(1) The note or notes herein authorized to be issued shall bear interest at a rate not in excess of 7 per cent per annum and may be made payable one day after date, in accordance with the form submitted in connection with the application herein, or may be made payable not to exceed three years from date of issue.

(2) The note or notes herein authorized to be issued shall be issued for the purpose of refunding notes to the face value of \$9,500.00 previously issued to the Bank of Lassen.

(3) The mortgage herein authorized to be executed shall be executed only upon condition that the mortgage now existing upon applicant's properties shall be canceled of record.

(4) The applicant shall report to this Commission within thirty days after the note or notes herein authorized to be issued shall have been issued, stating that such note or notes have been issued and that the notes to be refunded have been canceled.

(5) The authority herein granted to issue said note or notes is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

(6) The authority herein granted shall apply to such note or notes as shall have been issued on or before December 31, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of March, 1915.

DECISION No. 2216.

IN THE MATTER OF THE APPLICATION OF FRESNO FARMS COMPANY TO SELL AND KERMAN WATER COMPANY TO PURCHASE THE DOMESTIC WATER SYSTEM LOCATED AT THE TOWN OF KERMAN, FRESNO COUNTY, AND SUCH OTHER OF THE RIGHTS OF THE FORMER COMPANY AS MAY BE OF THE NATURE OF A PUBLIC UTILITY; AND OF KERMAN WATER COMPANY TO ISSUE STOCK.

Application No. 1565.

Decided March 13, 1915.

Applicant, Fresno Farms Company, desiring to divest itself of all public utility property, applies for permission to transfer to the Kerman Water Company its domestic water system serving the town of Kerman, and also for permission to transfer certain ditches and laterals through which applicant serves water for irrigation purposes to purchasers of its land should such property be found to be of a public nature.

Held, Application to transfer property granted and the Kerman Water Company authorized to issue 50 shares of its capital stock of the par value of \$100.00 per share, 5 shares to directors and 45 shares to the Fresno Farms Company; provided that Fresno Farms Company shall guarantee Kerman Water Company against any loss that might accrue in the operation of such transferred property and shall agree to permit the water company to use any ditches or laterals owned by it which might be required by the water company in the proper conduct of its business, and also providing the Kerman Water Company shall carry out all obligations for water service, both domestic and irrigation, at present binding upon the Farms Company.

Thomas C. Job, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

Fresno Farms Company is engaged in the development, improvement and sale of approximately 25,300 acres of land in Fresno County, about fifteen miles northwest of the city of Fresno, and upon which is located the unincorporated town of Kerman. Fresno Farms Company, hereinafter called the "Farms Company" was incorporated under the name of "Fresno Irrigated Farms Company," and since such incorporation its name has been changed to "Fresno Farms Company." Fresno Irrigated Farms Company succeeded to the interests of the San Francisco and Fresno Land Company which, in turn, was a successor in interest of the Bank of California to certain lands and water rights in Fresno County.

The Farms Company has sold and conveyed 7,000 acres of land of the aforesaid 25,300 acres and has sold under contract 3,300 acres additional. Of the remaining 15,000 acres, the Farms Company owns a portion in fee and the balance is held under a contract to purchase.

The Farms Company also owns 498 town lots and certain other subdivisions of real estate and buildings in the town of Kerman. It alleges that the value of its lands, together with the equity in the lands which it has contracted to purchase, may be conservatively estimated at \$965,000.00. It alleges further that it has expended approximately \$200,000.00 in developing these tracts.

The Farms Company sells water for domestic purposes in the unincorporated town of Kerman, which has a population of approximately 350 or 400 persons.

The Farms Company also owns and controls certain ditches and laterals used for the conveyance and delivery of water for irrigation purposes. Under a contract with the Fresno Canal and Irrigation Company, which distributes water from Kings River, the Farms Company undertakes to distribute water for irrigation purposes to persons who have settled upon its lands.

The Farms Company acquired water rights for these lands, according to the testimony in this case, from predecessors in interest which had paid approximately \$150,000.00 for these water rights. The Farms Company now assists the Fresno Canal and Irrigation Company in the distribution of water under the terms of an agreement filed in connection with this application as Exhibit "A." the term of the contract being the life of the Farms Company. Under the terms of this agreement the Farms Company is obligated to pay the Fresno Canal and Irrigation Company, hereinafter called the "Canal Company" annually upon 200 of said water rights, the sum of \$16,000.00, and upon 14½ of said water rights, the sum of \$1,193.35. These sums

must be paid whether or not the water is taken under the water right agreements.

The Canal Company's rate for this water service is $62\frac{1}{2}$ cents per acre per year to the water user, but an allowance of $12\frac{1}{2}$ cents per acre per year is made to the Farms Company, making the direct charge against the Farms Company 50 cents per acre per year. Under the arrangement between the Canal Company and the Farms Company, the Canal Company bills the irrigation users direct at the rate of $62\frac{1}{2}$ cents per acre. The amount collected from these water users at this rate is applied as a credit upon the sum annually due from the Farms Company to the Canal Company in the sum of \$17,193.35. It is intended by this arrangement that the Farms Company shall undertake to assure the full payment to the Canal Company annually for all the lands entitled to water, and for this undertaking and for the services rendered by the Farms Company in assisting in the delivery of the water through its own ditches and laterals, the Canal Company apportions $12\frac{1}{2}$ cents per acre to the Farms Company.

The contract covering this arrangement was executed September 15, 1908, by and between Fresno Canal and Irrigation Company and Fresno Irrigated Farms Company, which embraces a contract entered into June 7, 1897, between the Fresno Canal and Irrigation Company and the San Francisco and Fresno Land Company.

Fresno Farms Company now desires to confine its operations exclusively to land development and sale, and for that reason proposes to separate its water business from its land business. The petition admits that Fresno Farms Company is a public utility insofar as it serves the people of the town of Kerman with water, but raises the question for decision by this Commission whether the irrigation business as conducted by Fresno Farms Company makes it a public utility in the distribution and sale of water. I find that the irrigation business as conducted by Fresno Farms Company is such as to make Fresno Farms Company a public utility.

Fresno Farms Company petitions further, in case it should be declared a public utility both as to the sale and distribution of domestic water and irrigation water, that it be granted authority to sell its domestic water system in the town of Kerman, and that it be permitted to assign its contract for the distribution and sale of irrigation water to Kerman Water Company, a newly organized corporation, created for the special purpose of taking over the public utility water business of Fresno Farms Company.

In addition, Kerman Water Company requests authority from this Commission to acquire the domestic and irrigation water systems and business of Fresno Farms Company and to issue to Fresno Farms Company in payment therefor, 45 shares of its capital stock of the par

value of \$100.00 per share, or a total par value of \$4,500.00. It is alleged that the property used for serving domestic water to the inhabitants of the town of Kerman cost \$6,265.84, but that this property has depreciated somewhat in value.

Fresno Farms Company offers to guarantee Kerman Water Company against any deficiency of revenues which might impair the efficiency of its service to the public. The need of this guarantee arises from the fact that Fresno Farms Company's operations during the past year in the distribution and sale of irrigation water resulted in a deficit of approximately \$9,000.00.

It has been the practice of this Commission to authorize land companies to divest themselves of their public utility attributes by turning over their water systems to other corporations. In this case Fresno Farms Company expresses its readiness, after taking over the stock of Kerman Water Company, to make such guarantees as may be necessary.

The Kerman Water Company was incorporated on February 23, 1915, with an authorized capital stock of 100 shares of the par value of \$100.00 each. It has issued one share to each of the following subscribers: H. P. Baumgaertner, Henry Kressman, H. H. Kerekhoff, Anne Murray, J. E. Faulkner.

The Farms Company has submitted as Exhibit "F," a form of deed by which it proposes to transfer the water properties used in serving the town of Kerman to Kerman Water Company. These properties consist of a ten-inch well, 79 feet deep, pump, tank, pipes, etc.

A copy of the proposed contract has been submitted as Exhibit "G," under the terms of which the Farms Company conveys to the Kerman Water Company all of the rights of the Farms Company under the contract of the Farms Company with the Fresno Canal and Irrigation Company, heretofore referred to as Exhibit "A," providing, as heretofore recited, for the distribution and sale of water for irrigation purposes.

The irrigation and domestic water business hereinbefore described are carried on for the benefit particularly of the Farms Company to create a market for its lands and to make them productive under development. Accordingly I believe it is only proper that the Farms Company should undertake to guarantee the Kerman Water Company against any deficiency arising from its service of water. It should also be provided that any obligations for the service of water now binding upon the Farms Company should be accepted by the Kerman Water Company. It is the intention at a subsequent date to form mutual water companies which will undertake the distribution and sale of the water as now conducted for irrigation purposes by the Farms Company.

Accordingly I recommend that the application be granted and submit the following form of order:

ORDER.

Fresno Farms Company having applied to this Commission for authority to sell its domestic water system located at the town of Kerman, Fresno County, and to assign and convey its rights and obligations for the delivery and service of water for irrigation purposes to Kerman Water Company, and Kerman Water Company having applied to this Commission for authority to issue to Fresno Farms Company 45 shares of its capital stock of the par value of \$100.00 per share.

And a hearing having been held and it appearing to this Commission that public convenience will be served by the conveyance and transfer of the domestic and irrigation water properties, rights and obligations as aforesaid,

And it appearing further that the purposes for which Kerman Water Company proposes to issue said stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Fresno Farms Company be granted authority and it is hereby granted authority to convey to Kerman Water Company a certain tract of real estate and the domestic water system in said town of Kerman, substantially in the form of the deed of conveyance filed in connection with the application herein as Exhibit "F."

It is further ordered that Fresno Farms Company be granted authority and it is hereby granted authority to convey to Kerman Water Company the properties described in said form of deed marked Exhibit "F."

It is further ordered that Fresno Farms Company be granted authority and it is hereby granted authority to convey to Kerman Water Company, in the form as set forth in Exhibit "G" filed in connection with the application herein, all of its rights under its contract with Fresno Canal and Irrigation Company, dated September 15, 1908, and filed in connection with the application herein as Exhibit "A."

It is further ordered that Kerman Water Company be granted authority and it is hereby granted authority to issue 50 shares of its capital stock of the par value of \$100.00 per share in payment for said properties and said assignment of rights, the stock to be issued as follows: 45 shares to Fresno Farms Company, and one share each to H. P. Baumgaertner, Henry Kre-smann, H. H. Kerechhoff, Anne Murray, J. E. Faulkner.

The authority herein granted, both as to the transfer of the water properties and as to the issue of stock, are granted upon the following conditions and not otherwise:

(1) Fresno Farms Company and Kerman Water Company shall file with this Commission an agreement in proper form under the terms of which Fresno Farms Company shall guarantee Kerman Water Company against any loss through the operation of its irrigation water business or through the exercise of the rights to be assigned to it by Fresno Farms Company and now exercised by Fresno Farms Company under its contract with Fresno Canal and Irrigation Company, to which reference has heretofore been made, and marked Exhibit "A"; or through the operation of its domestic water business in the town of Kerman, and said contract to provide for the use by Kerman Water Company of such canals, ditches, laterals or other facilities owned or controlled by Fresno Farms Company which may be necessary to Kerman Water Company in the distribution and sale of irrigation water.

(2) The properties and rights hereinbefore referred to shall be transferred by Fresno Farms Company free of debt.

(3) The authority herein granted is granted upon the condition that Kerman Water Company shall accept and carry out all of the obligations for the service of water, both domestic and irrigation, now binding upon Fresno Farms Company.

(4) The authority herein granted shall not be binding upon this Commission or other tribunal as a finding by this Commission upon the rates or service in connection with the sale and distribution of water by Fresno Canal and Irrigation Company, Fresno Farms Company or Kerman Water Company, nor shall it be binding as a finding by this Commission of value of any of the properties of Fresno Canal and Irrigation Company, Fresno Farms Company or Kerman Water Company, this Commission reserving the right to inquire into and pass upon the rates and service of said Fresno Canal and Irrigation Company, Fresno Farms Company and Kerman Water Company and to investigate into and pass upon the value of their properties.

(5) The authority herein granted shall apply to such properties and rights as shall have been transferred and to such stock as shall have been issued on or before December 31, 1915.

(6) Within thirty days after the transfer herein authorized shall have been made and the stock shall have been issued, Fresno Farms Company and Kerman Water Company shall report such fact to this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of March, 1915.

DECISION No. 2217.

IN THE MATTER OF THE APPLICATION OF ESCONDIDO UTILITIES COMPANY FOR AN ORDER DETERMINING THE VALIDITY OF A PROMISSORY NOTE OF SIXTEEN THOUSAND DOLLARS (\$16,000) PURPORTING TO BE MADE BY IT AND PAYABLE TO THE ORDER OF W. S. SHEPARDSON, AND DETERMINING THE VALIDITY OF THE ATTEMPTED PLEDGE OF CERTAIN BONDS OF SAID COMPANY TO SECURE THE PAYMENT OF SAID NOTE.

Application No. 1355.

Decided March 13, 1915.

REPORT OF THE COMMISSION.

ORDER DISMISSING APPLICATION FOR REHEARING.

Escondido Utilities Company having filed an application for rehearing in the above entitled matter, and having on March 4, 1915, made written request that said application for rehearing be dismissed,

It is hereby ordered that the application of Escondido Utilities Company for a rehearing in the above entitled matter be and is hereby ordered dismissed.

Dated at San Francisco, California, this 13th day of March, 1915.

DECISION No. 2218.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY OF FRESNO COUNTY RAILWAY.

Case No. 156.

Decided March 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject-matter of this proceeding being covered by Case No. 788, being a similar proceeding to ascertain the value of the property of the California, Arizona and Santa Fe Railway Company,

It is hereby ordered that this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 15th day of March, 1915.

DECISION No. 2219.

DAIRYMEN'S CO-OPERATIVE CREAMERY ASSOCIATION

VS.

WELLS FARGO AND COMPANY.

Case No. 694.

RIVERDALE CO-OPERATIVE CREAMERY ASSOCIATION

VS.

WELLS FARGO AND COMPANY.

Case No. 695.

Decided March 13, 1915.

Complainants attack the rate of defendant company on butter between Tulare and Los Angeles and, at the hearing interested parties stating that a satisfactory rate has been agreed upon, complaint dismissed, defendant to file such rate with the Commission within twenty days.

*M. B. Harris, for Complainants.**Alfred Sutro, for Defendant.*

REPORT OF THE COMMISSION.

GORDON, Commissioner.

On October 6, 1914, the Dairymen's Cooperative Creamery Association, Tulare, California, filed complaint attacking express rate on butter between Tulare and Los Angeles. On the same date the Riverdale Co-operative Creamery Association, Riverdale, California, also filed a complaint. The points involved being substantially identical, it was stipulated and agreed by counsel for litigants at hearing held at Fresno, California, on March 11, 1915, that both cases be consolidated and a decision in Case No. 694 would likewise dispose of Case No. 695. Thereupon the Commission proceeded to take testimony in the former case. Shortly thereafter a recess was ordered, as it appeared to the Commission that the rates in controversy could be amicably adjusted. Upon resumption of the hearing counsel for plaintiffs and defendant orally requested that they be permitted to withdraw the complaints and answers, which the Commission granted upon the understanding that the request for such withdrawal be confirmed in writing and upon the further understanding that the express rates mutually agreed upon between Tulare and Los Angeles and Riverdale and Los Angeles would be published and filed with the Commission within a reasonable period. In compliance with the above request, I recommend that the complaints be dismissed.

ORDER.

A hearing having been held in the above cases, and the contestants having stated that a mutual understanding concerning the rates in

controversy had been reached, and contestants having joined in a request that the complaints be dismissed,

It is hereby ordered that the defendant publish and file with the Commission within twenty (20) days from the date of this order the rates mutually agreed upon.

It is further ordered that the complaints of the Dairymen's Co-operative Creamery Association and the Riverdale Co-operative Creamery Association be and the same are hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of March, 1915.

DECISION No. 2220.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO SELL AND SOUTHERN CALIFORNIA EDISON COMPANY TO BUY CERTAIN PROPERTY LOCATED AT PLAYA DEL REY.

Application No. 1536.

Decided March 13, 1915.

Pacific Electric Railway Company authorized to transfer to the Southern California Edison Company the portion of its heating and lighting system serving Playa del Rey, and the latter company is authorized to take over and operate such system paying therefor the sum of \$1,544.15, the Edison Company to file such contracts as may be still in effect between the Pacific Company and its consumers in this district so that the Commission may pass on any discrimination that might be caused thereby between the contract consumers and other consumers of the Edison Company.

Frank Karr, for Pacific Electric Railway Company.

Harry J. Bauer, for Southern California Edison Company.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is an application of the Pacific Electric Railway Company for authority to sell and the Southern California Edison Company to buy certain property located at Playa del Rey, as set forth in the opinion and order.

Applicant, Pacific Electric Railway Company, is a corporation engaged in the business of conducting electric railways and also furnishing light and heat in certain sections comprehended in its operation. As incidental to that operation, applicant has been furnishing light and heat to the residents in that portion of Venice, Los Angeles

County, California, known as Playa del Rey. Such service is more particularly set forth in the exhibits filed with the pleadings, to which reference is hereby made.

Applicant asks for permission to withdraw from the service of furnishing light and heat in the section named and to sell and dispose of its physical property devoted to that service to the Southern California Edison Company. This application is in keeping with the policy now being pursued by Pacific Electric Railway Company of disposing of its lighting and heating system. It was testified at the hearing by witnesses for applicant that the people whom applicant has been and is now serving in the section named were not only willing but anxious that the transfer herein asked for be permitted and that the people now served by Pacific Electric Railway Company with light and heat in Playa del Rey would be better served by permitting the transfer to the Southern California Edison Company, for the reason that the system of Pacific Electric Railway Company is chiefly devoted to the running of electric trains and cars and that lighting and heating is only incidental thereto, while the business of the Southern California Edison Company is practically entirely that of distributing electric energy and gas for light and heat; that the Southern California Edison Company is located at Venice, within a short distance of Playa del Rey, while the Pacific Electric Railway Company's principal place of business is located at Los Angeles, some twenty miles distant.

Witnesses for Southern California Edison Company testified that that company was in a position to give a better service for lighting and heating to the public than is the Pacific Electric Railway Company and that the Southern California Edison Company and the Pacific Electric Railway Company had agreed as to the price which should be paid for the transfer of the lighting and heating system of the Pacific Electric Railway Company in Playa del Rey to Southern California Edison Company, such price being the sum of \$1,544.15, which was arrived at by taking the depreciated value of the property and deducting therefrom the cost of the removal of the property and transferring it to the warehouse of Southern California Edison Company.

Witnesses for Southern California Edison Company testified that that company would rebuild the system and make it of standard construction and would extend the same rates to consumers of electric energy in Playa del Rey as are now extended to consumers in Venice.

Mention was made of the possibility that there were some contracts in existence between the Pacific Electric Railway Company and certain consumers of electric energy in Playa del Rey, which the Southern California Edison Company agreed to take over and to protect, subject

to the orders of the Railroad Commission, if any discrimination was found to exist by reason of such contracts. The Edison Company was instructed to furnish the Commission with copies of such contracts, if any were found to exist, in order that the Commission may determine whether discrimination would result from the carrying out of such contracts.

Witnesses for Southern California Edison Company testified that the application of that company's rates to the territory in question would result in the lowering of rates and an improvement in service.

I am of the opinion that the interests of the people in Playa del Rey now being served by the Pacific Electric Railway Company will best be served by permitting a transfer of the system of the Pacific Electric Company now devoted to that service to Southern California Edison Company, and submit the following form of order:

ORDER.

Pacific Electric Railway Company, a corporation engaged in the business of conducting electric railways and supplying heat and light in Southern California, having applied to the Railroad Commission for authority to sell that portion of its system devoted to lighting and heating at Playa del Rey, and Southern California Edison Company, a corporation engaged in furnishing electric energy and gas for light and heat in Southern California, having applied for permission to purchase said portion of said system, and it having been found at the hearing of said applications that the interests of the consumers now being served by Pacific Electric Railway Company in Playa del Rey will best be served by permitting the transfer of the lighting and heating system of Pacific Electric Railway Company in Playa del Rey to Southern California Edison Company.

It is hereby ordered that Pacific Electric Railway Company be and the same is hereby given permission to sell that portion of its heating and lighting system devoted to serving Playa del Rey to Southern California Edison Company, and Southern California Edison Company is hereby given permission to purchase said portion of said system from Pacific Electric Railway Company, the consideration therefor being the sum of one thousand five hundred and forty-four and 15/100 dollars (\$1,544.15).

It is hereby further ordered that the Southern California Edison Company furnish the Railroad Commission with copies of any contracts now in existence between Pacific Electric Railway Company and the consumers of electricity in Playa del Rey and, if it is found that discrimination will result from the continuation of such contracts and the application of the rates of Southern California Edison Company now in effect at Venice, which rates will be extended to Playa del Rey, that

Southern California Edison Company submit to the Railroad Commission such explanation as said company may desire justifying the continuation of such rates.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of March, 1915.

DECISION No. 2221.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS, FRESNO COUNTY, CALIFORNIA, FOR PERMISSION TO CONSTRUCT A PUBLIC HIGHWAY, KNOWN AS PHILLIP HERGENSRODER ROAD, AT GRADE ACROSS THE TRACK OF SOUTHERN PACIFIC COMPANY, BETWEEN SECTIONS 11 AND 14, TOWNSHIP 14 SOUTH, RANGE 21 EAST, M. D. M., FRESNO COUNTY, CALIFORNIA.

Application No. 1002.

Decided March 13, 1915.

Fresno County authorized to construct Hergensroder Road across the track of Southern Pacific Company at grade, the railroad company to install an automatic flagman at such point, the cost thereof not to exceed \$550.00 to be paid for by applicant, together with the cost of such crossing.

W. A. Collins and M. F. McCormack, for Applicant.

F. M. Worthington and W. M. Jackle, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application was filed by the Board of Supervisors of Fresno County, February 19, 1914. The Commission attempted for some time to adjust the matter informally and, failing in that, a public hearing was held in Fresno on March 10, 1915, at which all interested parties were represented.

The application looks to the opening of Philip Hergensroder Road, a public highway, across the Southern Pacific Company's track, between the stations of Locans and Ivesta, in the locality more particularly described in the application.

In the opinion of the Commission's engineer, representatives of the Southern Pacific Company, and the county of Fresno, this crossing is needed by the county, and it is the further opinion of the representatives of the Commission, the county, and Southern Pacific Company that it should be protected by an automatic safety device, for the reason

that the right-of-way at this point is narrow; that an orchard at one corner obstructs the view; and it is very probable that the other three corners of the crossing will be so obstructed in the near future.

The matter of the division of expense for constructing the crossing, and the terms upon which the automatic protection device shall be installed and maintained, therefore, remain the only matters to be considered. The Commission's usual method of dividing the expense of automatic flagmen has been to require the applicant to pay for the cost of purchasing and installing the flagman, and for the railroad company thereafter to maintain and keep this flagman in working order, and I see no reason why this usual method of dividing the expense should not be followed in this case. As a matter of fact it was decided by representatives of the county and Southern Pacific Company that the division of expense as outlined above was satisfactory to them, and this division of expense will be recommended.

The railroad in this territory is not now fenced, and it was further agreed between the county and Southern Pacific Company, that at such time as it becomes necessary for the Southern Pacific Company to fence its right-of-way, the county will stand the expense of installing cattle guards and wing fences at the crossing.

I recommend the following form of order:

ORDER.

Board of Supervisors, Fresno County, California, having applied to the Commission for permission to construct Phillip Hergensroder Road, a public highway, at grade, across the track of Southern Pacific Company, between sections 11 and 14, township 14 south, range 21 east, M. D. M., Fresno County, California, and a public hearing having been held, and the Commission being fully apprised in the premises,

It is hereby ordered that permission be and same hereby is granted board of supervisors of Fresno County, California, to construct Phillip Hergensroder Road, a public highway, at grade, across the track of Southern Pacific Company, between sections 11 and 14, township 14 south, range 21 east, M. D. M., Fresno County, California, subject to the following conditions, and not otherwise, viz.:

(1) This crossing shall be constructed of a width not less than twenty-four (24) feet, with grades of approach not exceeding six (6) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(2) The expense of constructing and maintaining the crossing between the rails, and to a point two (2) feet outside thereof, shall be borne by Southern Pacific Company. The expense of constructing and maintaining the crossing up to within two (2) feet of the rails of Southern Pacific Company shall be borne by applicant.

(3) At such time as it becomes necessary for Southern Pacific Company to fence its right of way in the vicinity of this crossing, applicant shall stand the expense of furnishing and installing cattle guards and wing fences.

(4) For the protection of this crossing Southern Pacific Company shall install a first-class, standard, automatic flagman, of a type to be approved by the Commission. The expense of this installation to an amount not to exceed five hundred and fifty (\$550) dollars, shall be borne by applicant. The cost of maintaining this automatic flagman thereafter in good and first-class condition shall be borne by Southern Pacific Company.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of March, 1915.

DECISION No. 2222.

IN THE MATTER OF THE APPLICATION OF KLAMATH TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO SELL ITS TELEPHONE PROPERTY.

Application No. 988.

Decided March 13, 1915.

REPORT OF THE COMMISSION.

Klamath Telephone and Telegraph Company, a corporation, having applied to this Commission for authority to sell, for the sum of \$15,000.00 or the surrender of an equivalent value of stock of Klamath Telephone and Telegraph Company, to Joseph Hessig, J. H. Hessig and Augusta Hessig, doing business as a copartnership under the name of Klamath Telephone and Telegraph Company, a certain telephone system operated between Derris and Ager, and between Yreka and Happy Camp, the property to be transferred being more particularly described

in an inventory attached to the application in this proceeding and marked "Exhibit C," as follows:

The line running from Yreka, California, to Alta Mine, Barkhouse, Bullion Mine, Bennett Mine, Daken Mine, Eliza Mine, Evans Ranch, Everill, Frashour, Garretson's Springs, Gottville, Granite Mine, Hamburg, Happy Camp, Humbug, Jackson Ranch, Litchen Ranch, McConnell Bar, McKinley Mine, Mono Mine, Nesbit, Norton, Norton Mill, Oak Bar, Pennsylvania Mine, Quigley, Rainey, Scott Bar, Seiad, Wellman, White's Ranch, Walker, and also one telephone at each station. The lines running from Ager, California, to Bogus, Lenox, Loosley, McKenzie, Parks, Klamath Hot Springs and Willow Creek, and also one telephone at each station, and approximately eighteen more telephones.

One ten-line switch telephone.

The above consists of approximately one hundred twenty miles of number ten BB galvanized iron single line, attached to approximately sixty miles of poles and sixty miles of trees.

The eighteen telephones above stated are located as follows:

Two at Scott Bar, besides the one above stated.

Two at Happy Camp, besides the one above stated.

Two at Walker, besides the one above stated.

Two at Quigley, besides the one above stated.

Two at Bogus, besides the one above stated.

Six at Willow Creek, besides the one above stated.

Two at Klamath Hot Springs, besides the one above stated.

Besides one line running from Klamath Hot Springs to Dorris, not in operation, having no telephones. Line is partially completed and consists of about fifteen miles.

Also all rights of way and privileges, tools, extra wire and material now on hand, and every and all things now belonging to, and being a part of, the property of the said Klamath Telephone and Telegraph Company;

and the Commission being duly advised in the premises and being of the opinion that the application should be granted,

It is hereby ordered that the application be, and the same is hereby, granted, provided that the consideration given for the property herein authorized to be transferred shall not be taken before this Commission, nor any other public body, as representing for rate fixing or other purposes the value of the property transferred.

Dated at San Francisco, California, this 13th day of March, 1915.

DECISION No. 2223.

C. C. CUTTERIDGE, G. W. OGDEN AND JENNIE THOMPSON

vs.

SAN FRANCISCO, NAPA AND CALISTOGA RAILWAY.

Case No. 751.

Decided March 13, 1915.

Complainants attack the one-way fare of 10 cents as maintained by defendant between the city of Napa and the Napa State Hospital, contending that 5 cents is a just and reasonable fare for this distance, using as comparisons distances within the city limits of Napa over which defendant maintains a 5-cent fare, and also alleging that the twenty-ride books sold by defendant for \$1.00 are inconvenient in that they are not acceptable on certain limited trains and that, though they may be used by more than one person, collectors have frequently refused to accept more than one ticket out of the same book at one time.

Held, That the rates maintained by the carrier over private right of way can not be placed on a parity with service over public streets where a carrier operates under a franchise from an incorporated city; also that the service rendered by limited trains can not be partially, if not entirely, destroyed by burdening such trains with local traffic. Defendant directed to instruct its conductors as to the uses of its twenty-ride books and to have such rules printed plainly thereon. Complaint in all other respects dismissed.

Frank M. Silva, for Complainants.

John T. York, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The complaint herein was filed by and in the behalf of the officers and employees of the Napa State Hospital, who frequently travel over defendant's line of railway between the hospital and the city of Napa.

Napa State Hospital is situated on defendant's line a short distance south of the southerly limits of the city of Napa and 1.5 miles from defendant's principal station in that city. A one-way fare of 10 cents is maintained and charged by the defendant for the transportation of persons between those stations. This fare the complaint alleges is unjust and unreasonable and asks that a one-way fare of 5 cents be established as a just and reasonable fare for that service.

The defendant also maintains a commutation fare of 5 cents per trip between the state hospital and any point in the city of Napa at which its trains stop, but the complainants contend that the conditions governing the use of tickets sold at that fare are unreasonable and make this ticket unsatisfactory. The rules governing the sale and use of the commutation ticket filed in defendant's tariff require that such tickets be purchased in books of twenty and the sum of \$1.00 paid therefor, and that such tickets are "good for passage of purchaser, his wife,

his children, domestic servants and such other relations as permanently reside with and are supported by the purchaser;" also that "the purchaser must sign his name in the proper place on the ticket and furnish names of such persons as are entitled to ride thereon." The tariff also provides that the tickets are not good for passage on defendant's limited trains.

The complainants contend that the one-way 10-cent fare between Napa and state hospital is shown to be unreasonable by the fact that the defendant maintains a one-way fare of 5 cents between any two points on its line within the city of Napa and which applies over a distance greater than that between state hospital and defendant's Napa station, between which points complainants ask that the same fare be established. It is the usual practice of carriers, such as defendant, to charge a 5-cent fare within municipalities to a great extent in disregard of distance, which is one of the principal elements in constructing the fares between points not within a municipality, and that practice appears to have been followed by the defendant in constructing its fares, and I, therefore, believe that it would be unfair to the defendant to take the fares within municipalities as a measure for fares outside where the operation is over private rights of way and not on city streets and not governed by conditions in franchises, as the fare within the city of Napa appears to be, at least until a convincing showing is made that the 5-cent fare within the municipality with which comparison is made is reasonable and just.

Most of the evidence introduced was directed to proving the contention respecting the unreasonable practices of the defendant in regulating the use of the commutation tickets. It was testified that although the tariff permitted the use of the tickets by dependent members of the purchaser's household and his domestic house servants, in practice the ticket had been good in the past for the use only of the party presenting same to the train conductor or ticket collector, and that in many instances husband and wife traveling together on the same train had been denied the privilege of using tickets from the same book, although such use is authorized by defendant's tariff. It was also stated that it is not always convenient or possible for members of a family to travel on the same train, and as tickets may under defendant's rules be detached only by defendant's ticket collectors or conductors, it is therefore necessary in some cases to purchase two or more of such books to get the advantage of this fare, and that the expenditure for transportation at one time of such an amount or even the amount necessary to purchase one book of twenty tickets is burdensome to some of the parties in whose behalf complaint is made, but obviously the Commission can not adjust fares to meet or offset

such conditions. It is empowered only to fix just and reasonable fares. The complainants also stated that it was not always convenient to purchase the tickets, as the conductors on trains are not provided with or authorized to sell them and defendant's ticket offices are not always open. The complainants also testified that the regulation prohibiting the acceptance of the commutation tickets for passage on its limited trains was objectionable and subjected complainants to some inconvenience.

It appears, however, that while the defendant's ticket collectors have in the past refused to honor tickets from the same book for the transportation of parties entitled by the terms of its tariff to ride thereon, at the present time the tickets are being accepted for passage of persons in accordance with the tariff conditions. It also appears that the defendant's ticket office in Napa is open throughout the day and until about 9 p. m., and that its ticket office at the hospital station is also open during most of the day, and that but one of the complainants had on one occasion been required to pay the 10-cent one-way fare on account of being unable to purchase a commutation ticket because the defendant's ticket office was closed. If reasonable opportunity is afforded by the carrier for the purchase of these tickets, such as appears to be the case, it should not be held responsible for a person's failure to take advantage of such opportunity. It seems, therefore, that there are no substantial grounds for complaint in this regard. The so-called limited trains of the defendant now stop at the state hospital station to discharge and take on passengers paying other than the commutation fares from or to that point, but the defendant alleges that when the commutation fare was established those trains did not stop at that station and that it was not contemplated that such fare would provide transportation on those trains, and that if the commutation tickets are accepted for transportation on such trains that the through passengers traveling thereon, and for whose accommodation they are largely maintained, will be inconvenienced by the crowding of such trains. The defendant operates ten northbound and ten southbound trains through the state hospital station daily, and on only one northbound and one southbound train is the commutation ticket not acceptable for transportation between Napa and state hospital. While I am not convinced from the evidence that the so-called limited trains would be inconveniently crowded were the commutation tickets accepted for transportation thereon, I am of the opinion that if the defendant were required to honor such tickets for transportation on those trains between Napa and state hospital the same privilege would have to be extended to passengers traveling on similar tickets between other points, and in that way the expeditious service which it is the purpose of those trains

to render would be seriously impaired if not completely destroyed. Again, it was not satisfactorily shown that the present service of nine trains daily each way through state hospital station did not adequately meet the needs of those persons traveling between that station and Napa on the commutation tickets.

It further appears from the evidence that a greater service in so far as distance is concerned is actually given on the present commutation fare than would be given if the proposed fare were established and the commutation fare canceled as suggested, as the latter fare applies between state hospital and the northerly limits of Napa, a distance of 3.1 miles, whereas, it is proposed that the 5-cent one-way fare apply only between state hospital and defendant's main station in Napa, a distance of 1.5 miles.

After a full consideration of all the evidence I am not convinced from the showing made that complainants are entitled to the relief sought. I am of the opinion that much of the dissatisfaction has been caused by the refusal of the defendant's ticket collectors to accept the commutation tickets for the transportation of those rightfully entitled by the terms of tariff to travel thereon, and I believe that this can be remedied by requiring the defendant to provide a form of commutation book or ticket, with all the conditions of its use plainly printed therein, and instruct its conductors and ticket collectors fully in regard to the acceptance of such tickets for transportation of the persons therein designated. An order to this effect should issue and as to the other matters the complaint should be dismissed.

I submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and a full investigation of the matters and things having been had and being fully apprised in the premises,

It is hereby ordered that the San Francisco, Napa and Calistoga Railway provide for travel on its twenty-ride commutation fare of \$1.00 between Napa and state hospital a form of commutation book or ticket containing all the conditions of its use plainly printed therein, and that the conductors and ticket collectors of said company be fully instructed in regard to the use of such tickets.

It is further ordered that as to other matters involved the complaint be and it is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of March, 1915.

DECISION No. 2224.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY TO PURCHASE ALL RIGHT, TITLE AND INTEREST IN AND TO CERTAIN TELEPHONE PROPERTY OF THE WEED LUMBER COMPANY, LOCATED AT WEED, SISKIYOU COUNTY, CALIFORNIA, AND FOR PERMISSION TO INSTALL TELEPHONE PLANT AND TO PUBLISH, FILE AND PLACE IN EFFECT RATES FOR EXCHANGE SERVICE AT WEED, SISKIYOU COUNTY, CALIFORNIA.

Application No. 1449.

Decided March 13, 1915.

Pacific Telephone and Telegraph Company authorized to take over and operate the telephone system at present owned by the Weed Lumber Company and serving the town of Weed and adjacent territory, and to place into effect its uniform schedule of rates for exchanges of this nature, this schedule to eliminate certain discriminations at present existing. The sum of \$350.00 to be paid the Weed Lumber Company therefor.

J. W. Gilkyson, for Applicant.

C. E. Evans, for the Weed Lumber Company.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This is an application by The Pacific Telephone and Telegraph Company, a public utility corporation, for permission to purchase and operate a small telephone system from the Weed Lumber Company, heretofore owned and operated by the latter company in the town of Weed, Siskiyou County, and adjoining territory, and to place in effect certain rates for service in connection therewith.

The property involved in this sale to the applicant is listed in detail in an exhibit attached to and made a part of the application and designated as Exhibit "C." The consideration named is three hundred fifty dollars (\$350.00). Exhibit "C" does not show an appraisal of the property involved, but the items listed have been examined by the Commission's telephone engineer and there appears to be no reasonable cause for objection to the amount named, particularly as it is so small as to be unimportant.

The rates which the applicant desires to place in effect are similar to the rates more or less uniformly in effect for similar service at other points in the applicant's territory. They are indicated in applicant's Exhibit "A" which is also attached to and made a part of the application, as its proposed rate schedule. This schedule provides for service at the rates specified for all patrons within a radius of one half ($\frac{1}{2}$) mile from the central office switchboard. At the hearing,

permission was requested by the applicant to amend section V of the application to extend the radius shown in Exhibit "A" so as to include, in addition to the radius of one half ($\frac{1}{2}$) mile from the present central office in Weed, a further radius of one half ($\frac{1}{2}$) mile from the center of the town of Shastina, which adjoins the town of Weed, in order to allow the people of Shastina rates similar to those proposed for the people of Weed for similar service. This permission was granted and the application will be considered as herein amended.

The Weed Lumber Company has heretofore taken the position that it is charging no rates in and for itself, that the only charges collected by it are the charges of The Pacific Telephone and Telegraph Company for long distance toll connections which that company provides, and that the compensation allowed by that company for collecting those charges goes to the lumber company's operator as compensation for handling the business, and that therefore they are not operating this telephone system as a public utility. It is apparent, however, from the testimony which is of record in this proceeding that it is now collecting and has heretofore collected not only the Pacific Company's toll charges for long distance service, but also certain local rates for the local exchange service which it furnishes. It is also apparent from the testimony that discrimination exists in these local rates. While these facts were plainly established, it appears that the lumber company originally built its telephone lines primarily for the convenience of its own business, and that it does not desire to conduct a public utility business. Its transfer to the Pacific Company will undoubtedly result in an improved telephone service to these communities and at the same time bring about the desired separation of this utility business from the lumber business, but the adoption of the rate schedule proposed by the Pacific Company will change the present rates and will increase some of them. It also contemplates certain changes in classes of service which should and which, if properly administered, will improve the general character of the service and at the same time remove the present discrimination without unduly burdening the patrons. The only other method open of removing the element of discrimination would be the lowering of the present rates, and this I would not recommend in this case.

The people of Shastina are not in favor of this change unless the applicant will agree to extend the present hours of service, which, it was claimed, are not sufficient to adequately meet the public necessity. There seems to be little, if any, doubt that a further extension of the hours of service to give certain classes of patrons and users access to the lines during hours when the office is at present closed would be a

further convenience, but this appears to be a matter which can and should be satisfactorily and amicably arranged without an order of the Commission, and I do not believe that an order is necessary at this time to bring about this result.

In view of the foregoing, and in the absence of any reasonable objection, I am of the opinion that the public necessity and convenience will be better served by the granting of this application, and recommend the following order:

ORDER.

Application having been made by The Pacific Telephone and Telegraph Company for permission to purchase all the right, title and interest in and to certain telephone property of the Weed Lumber Company, located at Weed, Siskiyou County, California, and to install telephone plant and to publish, file and place in effect rates for exchange service at Weed, Siskiyou County, California, and a hearing having been duly held, and permission having been requested to amend this application as more specifically referred to in the opinion preceding this order, and no adequate objection appearing, and it appearing to this Commission that the public necessity and convenience will be subserved by the granting of this application.

It is hereby ordered that the application as hereinabove amended be and it is hereby granted, provided that this permission is not to be taken as approval of the rates, since the Commission has not yet passed upon their ultimate reasonableness;

And provided, further, that the amount paid to the Weed Lumber Company by the applicant for the transfer of this telephone property is not to be taken by this Commission or other duly constituted authority as a basis for rate making or other purposes.

This order to be and become effective on or before sixty (60) days from the date of its approval.

This opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of March, 1915.

DECISION No. 2225.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF CALIFORNIA RAILWAY.

Case No. 129.*Decided March 15, 1915.*

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered by Case No. 321, being a similar proceeding to ascertain the value of the property of San Francisco-Oakland Terminal Railways,

It is hereby ordered that this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 15th day of March, 1915.

DECISION No. 2226.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF RANDBURG RAILWAY COMPANY.

Case No. 162.*Decided March 15, 1915.*

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered by Case No. 788, being a similar proceeding to ascertain the value of the property of the California, Arizona and Santa Fe Railway Company,

It is hereby ordered that this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 15th day of March, 1915.

DECISION No. 2227.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF FULLERTON AND RICHFIELD RAILWAY COMPANY.

Case No 157.

Decided March 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered by Case No. 788, being a similar proceeding to ascertain the value of the property of the California, Arizona and Santa Fe Railway Company.

It is hereby ordered that this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 15th day of March, 1915.

DECISION No. 2228.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF OAKDALE WESTERN RAILWAY COMPANY.

Case No. 160.

Decided March 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered by Case No. 788, being a similar proceeding to ascertain the value of the property of the California, Arizona and Santa Fe Railway Company.

It is hereby ordered that this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 15th day of March, 1915.

DECISION No. 2229.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF CALIFORNIA EASTERN RAILWAY COMPANY.

Case No. 155.

Decided March 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered by Case No. 788, being a similar proceeding to ascertain the value of the property of the California, Arizona and Santa Fe Railway Company.

It is hereby ordered that this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 15th day of March, 1915.

DECISION No. 2230.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF KINGS RIVER RAILWAY COMPANY.

Case No. 158.

Decided March 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered by Case No. 788, being a similar proceeding to ascertain the value of the property of the California, Arizona and Santa Fe Railway Company.

It is hereby ordered that this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 15th day of March, 1915.

DECISION No. 2231.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF BARNWELL AND SEARCHLIGHT RAILWAY COMPANY.

Case No. 154.

Decided March 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered by Case No. 788, being a similar proceeding to ascertain the value of the property of the California, Arizona and Santa Fe Railway Company.

It is hereby ordered that this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 15th day of March, 1915.

DECISION No. 2232.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF ARIZONA AND CALIFORNIA RAILWAY COMPANY.

Case No. 153.

Decided March 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered by Case No. 788, being a similar proceeding to ascertain the value of the property of the California, Arizona and Santa Fe Railway Company.

It is hereby ordered that this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 15th day of March, 1915.

DECISION No. 2233.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF OAKLAND AND EASTSIDE RAILWAY COMPANY.

Case No. 161.

Decided March 15, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered by Case No. 788, being a similar proceeding to ascertain the value of the property of the California, Arizona and Santa Fe Railway Company,

It is hereby ordered that this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 15th day of March, 1915.

Decisions Nos. 2234, 2235, grade crossings; not printed. See end of volume.

DECISION No. 2236.

IN THE MATTER OF THE APPLICATION OF THE WESTERN UNION
TELEGRAPH COMPANY FOR AUTHORITY TO SELL TO THOMAS
CONLIN A TELEGRAPH LINE BETWEEN SONORA AND COLUMBIA,
CALIFORNIA.

Application No. 1568.

Decided March 18, 1915.

REPORT OF THE COMMISSION.

The Western Union Telegraph Company having applied to this Commission for authority to sell to Thomas Conlin, for the sum of one dollar (\$1.00), all of the telegraph company's right, title and interest in and to a certain line of poles and wire between Sonora and Columbia, California, a distance of about three miles, together with the instruments and battery at the office of the telegraph company in Columbia, the sale to be made in accordance with the terms and conditions set forth in copy of the deed attached to the application in this proceeding and marked "Exhibit A," and the Commission being duly advised in the premises and being of the opinion that the application should be granted,

It is hereby ordered that this application be, and the same is hereby, granted.

Dated at San Francisco, California, this 18th day of March, 1915.

DECISION No. 2237.

GUY WILKINSON

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 413.

Decided March 18, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant having asked that the complaint be dismissed,
It is hereby ordered that the complaint herein be and the same is
hereby dismissed without prejudice.

Dated at San Francisco, California, this 18th day of March, 1915.

DECISION No. 2238.

G. SPECIALE

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 742.

Decided March 18, 1915.

Complainant having entered into a contract with defendant company by which he was to secure electric energy for power purposes guaranteeing a minimum annual bill of \$120.00, alleges that on account of drought during the year 1913, his well went dry and the pumps were useless and through no fault of his own he was unable to use the minimum amount of energy and accordingly refused to pay therefor; defendant thereupon disconnected service, which complainant petitions the Commission to order reconnected.

Held, That this Commission is not the proper authority to direct the payment of the balance due on this minimum bill, such matter resting with the civil courts, though as utilities should be protected in matters of this nature, defendant directed to reconnect service to complainant, provided complainant shall pay quarterly in advance the minimum rate provided by contract, until such time as the courts shall have awarded defendant, if such should be the case, the balance due.

Orvis Speciale, for Complainant.

Charles P. Cutten, for Defendant.

REPORT OF THE COMMISSION.

DEVLIN, Commissioner.

This is a complaint by G. Speciale, an orchardist of Almaden road, Santa Clara County, California, against the Pacific Gas and Electric

Company to compel defendant to sell complainant electric energy for pumping purposes, and to execute a contract for that purpose.

The complainant alleges, in effect, that he is an orchardist residing on the Almaden road, county of Santa Clara, State of California; that on December 22, 1911, he entered into a three-year contract with defendant to purchase electric energy for a twenty horsepower motor for irrigation purposes from the defendant and to pay it an annual minimum of \$120.00; that during the first year the consumption was in excess of the minimum charge, but that during 1913 the pumping plant failed, due to drought, and he was prevented from using the minimum of \$120.00 worth of energy, the energy bill being only \$25.90; that the water rose in the well in 1914, but he was prevented from using the minimum, owing to the defendant's disconnecting his service on June 23, 1914, and refusing to couple service unless he paid the minimum for the 1913 season.

The complainant further alleges that the failure of the water supply was an act of God, that the matter should be put aside for a court to decide, and prays that the Commission compel the Pacific Gas and Electric Company to supply power and execute a contract for that purpose.

The defendant in its answer to the complaint, admits that a contract was entered into with complainant for service to a twenty horsepower motor; that the total consumption for the third year was thirty-two and seventy one-hundredths dollars (\$32.70); that on June 23, 1914, it removed complainant's meter and discontinued service, and has refused and still refuses to enter into a contract to furnish power until the complainant has paid the minimum of \$127.10 due. Defendant denies that complainant tendered the sum of \$32.70 in payment of or as a credit on, the minimum, for the year 1914; denies that complainant was prevented from fulfilling his contract with defendant by an act of God and an unavoidable accident; and denies that it is under obligation to furnish power to the complainant or to enter into contract with complainant until complainant shall have paid the amount due under the terms of the contract.

The hearing in this case was held at San Jose, on February 19, 1915. The evidence shows that complainant entered into a three-year contract with defendant on the 22d day of December, 1911, whereby defendant promised to sell and deliver and complainant promised to purchase all of the electricity required to operate the twenty horsepower pumping plant located on Almaden road, Santa Clara County, California. The annual minimum guarantee payment under the above contract is \$6.00 per horsepower of the rated capacity of the meter, or \$120.00 per year. To render service to complainant, defendant

invested \$265.10 in local extension, including transformers and meters. Service was first rendered on March 19, 1912, and during the first year the consumption amounted to \$133.55, which amount was paid by complainant to defendant.

During the year ending March 19, 1914, complainant's consumption amounted to only \$25.90, due to inability on the part of complainant to obtain water, owing to dry season. Complainant refused to pay the difference of \$94.10 to make the minimum payment in full, as agreed in his contract, and on June 23, 1914, after the consumption for the third season had equalled the sum of \$32.70, defendant removed the meter and discontinued the service to the complainant's motor. Under the contract there is still due \$127.10.

It appears that complainant had a centrifugal pump installed in his well in a pit about thirty feet deep; that during 1913, which was a season of less than average rainfall, the water level in his well lowered to such a point that complainant could not pump. Complainant, in an attempt to obtain water, lowered his well pit twenty feet, at an expense of about \$200.00, but failed to obtain water, and thereafter purchased water from his neighbor, Mr. Adrian. During the following winter the precipitation was above the average, and the water again rose in the well so that irrigation could be carried on from it.

The evidence further shows that during 1913 there was a lowering of the water in the wells in the district surrounding complainant's well, and that other pumps had to be lowered, but there is no evidence of complete failure of water in other wells in that vicinity.

The complainant did not request the defendant to discontinue his service when he was able to obtain water, and defendant therefore continued in readiness to serve complainant and to meter and bill him for such energy as was consumed. A record of the consumption of the neighboring plants shows that the water supply apparently did not fail entirely.

Complainant's monthly bills were as follows:

| | | |
|-----------------|-------|---------|
| May, 1913 | ----- | \$19 00 |
| June, 1913 | ----- | 2 10 |
| July, 1913 | ----- | 60 |
| August, 1913 | ----- | 30 |
| September, 1913 | ----- | --- |
| October, 1913 | ----- | --- |
| Total | ----- | \$22 00 |

I think that the question whether or not the failure on the part of the complainant to fulfill his part of the contract was due to an act of God is one not necessary to be considered by this Commission in this proceeding but should be decided by the courts.

Pending such determination by the courts, or, if defendant waives its right to sue for the amount it claims to be due, it appears to be but fair that complainant should be required to guarantee defendant any future bills, and in order to do so, should pay in semiannual payments, in advance, his minimum bill, and I recommend that such be the order of this Commission.

After a careful consideration of the evidence in this case, I find that complainant is entitled to receive service, and that defendant should serve him under conditions which are specified in the order herein.

I submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, and the case having been submitted and now ready for decision,

It is hereby ordered that Pacific Gas and Electric Company, within twenty (20) days after date of this order, shall reconnect complainant's pumping service and furnish complainant with electric power for pumping;

Provided, that it may require G. Speciale to pay in advance, semi-annually each year, a sum equal to one half of the annual minimum bill under the terms of such contract; provided, that if the defendant sue for said \$127.10 and final judgment in such suit is in favor of complainant herein, then such advance payments to cease.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of March, 1915.

DECISION No. 2239.

IN THE MATTER OF THE APPLICATION OF ORO ELECTRIC CORPORATION FOR PERMISSION TO HYPOTHECATE ONE HUNDRED EIGHTY OF ITS FIRST MORTGAGE SIX PER CENT SINKING FUND GOLD BONDS OF THE PAR VALUE OF ONE THOUSAND DOLLARS EACH, DATED OCTOBER 1, 1911.

Application No. 1571.

Decided March 18, 1915.

Applicant, Oro Electric Corporation, desiring to reimburse its treasury for moneys expended for capital purposes, applies for and is granted permission to pledge \$180,000.00 face value of its bonds as security for twelve short term notes of the aggregate face value of \$60,000.00, such notes to bear interest at 7 per cent and to be redeemable all within a period of one year.

W. H. Orrick, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

Oro Electric Corporation makes application herein for authority to issue and pledge \$180,000.00 face value of its bonds as collateral security for promissory notes in the total sum of \$60,000.00. Oro Electric Corporation is engaged in the business of generating and selling electricity for light, heat and power. It serves Oroville and other portions of Butte County. It owns reservoir sites and riparian rights on Yellow Creek, Soda Creek, Butte Creek and Grizzly Creek, in Plumas County, and Deer Creek and Mill Creek, in Tehama County, an auxiliary steam plant at Stockton and certain other power plants with transmission and distribution lines located in Sutter, Yuba, Glenn, Calaveras, Butte and San Joaquin counties, California. It has an authorized stock issue of 100,000 shares, divided into 35,000 shares of preferred and 65,000 shares of common stock, all of the par value of \$100.00 per share. All of the stock is outstanding.

The applicant is also engaged in the business of gold dredging, from which it derives a very large portion of its revenues.

The applicant reports bonds outstanding for itself and related corporations as follows:

| | |
|--|-----------------------|
| Oro Electric Corporation----- | \$1,830,000 00 |
| Oro Water, Light and Power Company----- | 300,000 00 |
| Oroville Light and Power Company----- | 46,000 00 |
| Total ----- | \$2,176,000 00 |
| Applicant also reports a floating indebtedness in the sum of | 220,000 00 |
| The note issue now proposed would increase the indebted- | |
| ness by ----- | 60,000 00 |

The total indebtedness, therefore, would be----- \$2,456,000 00

For the calendar year 1914 the applicant submitted the following income account:

| | |
|--|---------------------|
| Gross earnings ----- | \$713,669 24 |
| Other earnings ----- | 1,374 11 |
| Total earnings ----- | \$715,043 35 |
| Operating expenses ----- | 414,690 30 |
| Net earnings ----- | \$300,353 05 |
| Interest on bonds and all other indebtedness ----- | 137,199 35 |
| Net surplus after all charges ----- | \$163,153 70 |
| Deductions above chargeable to capital— | |
| Interest during construction----- | 55,800 00 |
| Development expense ----- | 23,564 38 |
| Actual surplus ----- | \$242,518 08 |

Of the gross earnings in the sum of \$713,669.24, the sum of \$268,348.15 is attributable to the public utility business, and \$445,321.09 to the gold dredging operations.

Oro Electric Corporation proposes to issue twelve notes of the face value of \$5,000.00 each, to be dated March 25, 1915, these notes to mature serially, one every month, beginning May 25, 1915, with the exception that in one month two such notes shall mature, the purpose being that none of the notes shall be issued for a term in excess of one year. These notes will carry interest at the rate of 7 per cent per annum and each one will be secured by \$15,000.00 face value of bonds as collateral. As these notes are to be issued for a period not in excess of one year, it is not necessary for the applicant to obtain the authority of the Commission for their issue. The applicant, however, may not pledge the bonds as collateral security unless the issue of those bonds is authorized by this Commission.

The ratio of bonds to the face value of the notes, three to one, is manifestly higher than prudence or good financing dictate, and we may assume that it is not through the choice of the applicant that it is obliged to pledge its bonds at the ratio indicated.

It is proposed to use the \$60,000.00 to reimburse the applicant for expenditures made from income upon capital account. The applicant stated at the hearing that it was the intention hereafter to devote its surplus earnings to the payment of these notes as they fall due, and that as these notes were paid, the collateral securing them would be returned to the treasury. In addition, the applicant has obligated itself to take every precaution and has submitted assurances that it will not in any event permit a default nor a foreclosure upon the collateral bonds. It may be expected, therefore, that the applicant will retire these notes monthly. This utility has been making certain changes in its affairs and I believe this fact should be taken into consideration in passing upon this matter.

In view of the assurances which have been made by this applicant to the end that the bonds, if pledged, will be duly returned to applicant's treasury, I recommend that the application be granted and submit the following form of order:

ORDER.

Oro Electric Corporation having applied to this Commission for authority to issue and pledge \$180,000.00 face value of its bonds, secured by its trust deed to First Federal Trust Company of San Francisco, trustee, dated October 1, 1911, as collateral security for an issue of \$60,000.00 of notes as specified in the foregoing opinion, and a hearing having been held and it appearing that the purposes for

which it is proposed to issue said notes and to pledge said bonds are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered that Oro Electric Corporation be granted authority and it is hereby granted authority to pledge \$180,000.00 face value of its bonds, secured by its trust deed to First Federal Trust Company of San Francisco, as trustee, dated October 1, 1911, as collateral security for an issue of \$60,000.00 of notes, said notes to be dated March 25, 1915, and to mature serially, all within a period of one year after date.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The bonds herein authorized may be pledged at the ratio of \$15,000.00 of bonds as security for every note of the face value of \$5,000.00.

2. The notes herein proposed to be issued shall be retired at the rate of not less than \$5,000.00 monthly, beginning in May, 1915, and upon the retirement of each note of the face value of \$5,000.00, the bonds pledged as collateral therefor shall be returned to applicant's treasury and not thereafter issued until such further issue shall have been approved by this Commission.

3. Oro Electric Corporation shall keep separate, true, and accurate accounts showing the pledge of the bonds herein authorized and shall report monthly to this Commission, stating the amount of bonds pledged and returned to its treasury.

4. The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

5. The authority herein granted shall apply to such bonds as shall have been pledged on or before December 31, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of March, 1915.

DECISION No. 2240.

IN THE MATTER OF THE APPLICATION OF MOUNT WHITNEY POWER AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING AN ADDITIONAL ISSUE OF THREE HUNDRED THOUSAND DOLLARS OF BONDS.

Application No. 1578.

Decided March 18, 1915.

Applicant having heretofore applied and been granted permission to issue bonds for additions to its system, which authorization expired when only a portion of such bonds had been disposed of, applies and is granted permission to issue \$238,000.00 face value of 6 per cent bonds to be sold at not less than 95, for, with certain alterations, the same purposes as those heretofore authorized.

Charles R. Blyth, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner.*

On February 10, 1914, Mount Whitney Power and Electric Company filed an application (Application No. 984) for authority to issue \$500,000.00 of bonds.

On May 4, 1914, this Commission issued an order (Decision No. 1482) authorizing Mount Whitney Power and Electric Company to issue \$500,000.00 of its 6 per cent bonds under its deed of trust to Bankers Trust Company of New York, dated October 1, 1909. The order specified that the bonds should be sold so as to net the applicant not less than 95 per cent of the face value thereof plus accrued interest. The order provided further that the proceeds from the sale of the bonds should be applied upon certain specified additions and betterments of the total cost of \$627,100.55. It was further provided that the order should apply to bonds sold on or before January 1, 1915.

On March 4, 1915, the application herein was filed, the applicant reciting that it had issued only \$212,000.00 of the bonds heretofore authorized by Decision No. 1482. Request was made for authority to issue \$300,000.00 of bonds. This application, when filed, was designated "supplemental petition" and was marked "Application No. 984." Subsequently, however, it was given Number 1578, the number by which it will be hereafter designated.

A hearing was held on March 10, and at this hearing the case was submitted upon the evidence, exhibits and proceedings upon Application No. 984 and other cases involved in the affairs of Mount Whitney Power and Electric Company. The applicant, after submission, modified its application and asked for an authorization to issue \$238,000.00 of bonds instead of \$300,000.00.

The applicant sets forth the purposes upon which it proposes to apply the proceeds from the sale of the bonds which it now desires to issue, as follows:

| | |
|---|---------------------|
| Completion of steam plant..... | \$76,400 57 |
| Distribution lines and substations..... | 83,858 02 |
| Main line extensions..... | 86,963 84 |
| Meters and small transformers..... | 8,310 00 |
| Miscellaneous additions | 15,686 05 |
| Kaweah Power Plant No. 1..... | 313 10 |
| Kaweah Power Plant No. 2..... | 40 07 |
| Kaweah Power Plant No. 3..... | 25,614 25 |
| Tule River Plant No. 1..... | 423 81 |
| Total | \$297,609 71 |

As the applicant may issue bonds for only 80 per cent of its additions and betterments, according to the terms of its deed of trust, it therefore requests authority to issue bonds of the face value of \$238,000.00.

The details covering these matters have been heretofore presented to the Commission and reviewed in former proceedings. This application, in effect, is to revive, with certain modifications, the authority heretofore granted to issue bonds and which expired on January 1, 1915.

For the calendar year 1914, Mount Whitney Power and Electric Company submitted the following statement of earnings:

| | |
|--|---------------------|
| Operating revenues | \$670,266 80 |
| Operating expenses | 322,719 43 |
| Net operating revenue, electric..... | \$347,547 46 |
| Miscellaneous rent revenues, electric..... | 320 00 |
| Miscellaneous interest revenues..... | 16,319 21 |
| Miscellaneous non-operating revenues..... | 55 62 |
| Gross corporate income | \$364,242 29 |
| Uncollectible bills | \$7,575 54 |
| Miscellaneous non-operating expenses..... | 12,134 68 |
| Total non-operating revenue deductions..... | \$19,710 22 |
| Interest accrued on funded debt..... | 141,966 47 |
| Other interest deductions..... | 26,968 60 |
| Miscellaneous deductions from income— | |
| Rebate and discounts..... | 19,282 83 |
| Total miscellaneous deductions..... | 207,928 12 |
| Balance | \$156,314 17 |

I find that the only items of material difference in the application herein and in Application No. 984 are the amounts to be expended upon the steam plant and upon Kaweah Power Plant No. 3. Applicant has enlarged its steam plant and for this purpose proposes in the application herein to expend \$76,400.57. The expenditure to be made upon Kaweah No. 3 is given as \$25,614.25.

I recommend that this application be granted and submit the following form of order:

ORDER.

Mount Whitney Power and Electric Company having applied to this Commission for authority to issue \$238,000.00 of its 6 per cent bonds under its deed of trust to Bankers Trust Company of New York, dated October 1, 1909, and a hearing having been held and it appearing that the purposes to which the applicant proposes to devote the sale of said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Mount Whitney Power and Electric Company be granted authority and it is hereby granted authority to issue \$238,000.00 of its 6 per cent bonds under its deed of trust to Bankers Trust Company of New York, dated October 1, 1909, said bonds maturing October 1, 1939.

The bonds herein authorized to be issued shall be issued upon the following conditions and not otherwise:

1. Said bonds shall be sold so as to net the applicant not less than 95 per cent of the par value thereof plus accrued interest thereon.

2. Said bonds shall be sold only when the net earnings of the applicant shall justify such issue, in accordance with the terms of its deed of trust heretofore referred to.

3. The proceeds to be derived from the sale of said bonds shall be applied upon the following purposes:

| | |
|--|---------------------|
| Completion of steam plant..... | \$76,400 57 |
| Distribution lines and substations | 83,858 02 |
| Main line extensions..... | 86,903 84 |
| Meters and small transformers..... | 8,310 00 |
| Miscellaneous additions | 15,686 05 |
| Kaweah Power Plant No. 1..... | 313 10 |
| Kaweah Power Plant No. 2..... | 40 07 |
| Kaweah Power Plant No. 3..... | 25,014 25 |
| Tule River Plant No. 1..... | 423 81 |
| Total | \$297,609 71 |

4. Mount Whitney Power and Electric Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted to issue bonds shall apply to such bonds as shall have been issued on or before March 1, 1916.

6. The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of March, 1915.

DECISION No. 2241.

IN THE MATTER OF THE COMPLIANCE BY OIL PIPE LINES WITH PROVISIONS OF CHAPTER 327 OF THE LAWS OF 1913, DECLARING CERTAIN CORPORATIONS, ASSOCIATIONS AND INDIVIDUALS TO BE COMMON CARRIERS AND PUBLIC UTILITIES SUBJECT TO THE PROVISIONS OF THE PUBLIC UTILITIES ACT.

Case No. 450.

Decided March 18, 1915.

Application for rehearing on the part of certain pipe line companies, declared to be common carriers subject to this Commission's jurisdiction in the original order in the above entitled proceedings, contends, among other things, that a certain pipe line is used fifty-fifty by the Southern Pacific Company, carrying oil for railroad purposes, and that to open such line to all comers would seriously impair transportation facilities. In reply to which the Commission states that it has no intention of interfering with commerce, but that, on the other hand, it is its intention to protect utilities in this regard. As to the claim that pipe lines are constructed to carry only certain gravities of oil and that to transport oil of lower gravities would seriously affect such service, original order modified to provide for the filing of tariffs covering the transportation of crude oil, petroleum or its products in such form only as to which each particular carrier is engaged.

REPORT OF THE COMMISSION.

OPINION ON APPLICATIONS FOR REHEARING.

Applications for rehearing have been filed in this proceeding by General Pipe Line Company of California, Associated Pipe Line Company, Southern Pacific Company, Kern Trading and Oil Company, and Associated Oil Company in behalf of Associated Pipe Line Company, Associated Oil Company and Producers Transportation Company. We desire to comment briefly upon certain matters set forth in these applications for rehearing.

The application of Southern Pacific Company and Kern Trading and Oil Company states that on January 19, 1915, Kern Trading and Oil Company

“sold, assigned and transferred to Southern Pacific Company, its successors and assigns, all of the interest of Kern Trading and Oil Company in and to the capital stock and property of Associated

Pipe Line Company, and all the right, title and interest of Kern Trading and Oil Company in or under any existing agreement or agreements between or among Associated Oil Company, Kern Trading and Oil Company, and Associated Pipe Line Company, or any of them, relating to or affecting the property, ownership or management of Associated Pipe Line Company."

As stated in the opinion in this proceeding, made on December 31, 1914, Kern Trading and Oil Company owned 50 per cent of the stock of Associated Pipe Line Company, and was entitled to use one half of the capacity of the lines of that company. The opinion states also that all the oil carried through the lines of that company to the account of Kern Trading and Oil Company is produced by that company, and is delivered to and consumed by Southern Pacific Company. The effect of the transfer above mentioned, therefore, is to place the Southern Pacific Company in the position of Kern Trading and Oil Company with relation to that company's interest in the Associated Pipe Line Company. This transfer has no bearing upon this proceeding, but we set it forth merely in order that the record may be clear thereon.

The applications for rehearing by or on behalf of Associated Pipe Line Company allege that in case that company is required to throw its lines open to the transportation of oil for all comers a serious interference with interstate commerce will result. These petitions call attention to the fact that 50 per cent of the capacity of these lines is used to transport oil consumed by Southern Pacific Company as fuel in the carrying on of interstate and intrastate commerce. The conclusion that there will be an interference with interstate commerce assumes that this Commission will require Associated Pipe Line Company to throw its line open to all comers for the transportation of oil. There is no basis for this conclusion. It is to be presumed that in regulating any utility subject to its jurisdiction the Commission will act within constitutional limitations. It is entirely consistent for this Commission to find that Associated Pipe Line Company is a common carrier and public utility under the provisions of chapter 327 of the Laws of 1913, and at the same time so regulate the transportation of oil by that company as to impose no burden upon its use as a facility in interstate commerce. We state our views upon this matter in order that it may be clear that the Commission does not propose to attempt any regulation of Associated Pipe Line Company which will impose any illegal restrictions upon interstate commerce. The objection to which that company refers can be cared for by proper regulation. The mere declaration that the company is a common carrier can not itself, in our opinion, amount to an interference with interstate commerce.

Certain of the companies applying for rehearing set forth that they are engaged only in the transportation of oil of certain kinds or gravi-

ties. The Associated Pipe Line Company, for instance, states that while engaged in the transportation of crude oil or petroleum, it is not engaged in the transportation of the products thereof. Likewise, General Pipe Line Company of California states that it is engaged only in the transportation of oil of certain gravities. The Commission does not intend that its order in this proceeding shall amount to a declaration that the pipe line companies concerned must transport oil of every kind and gravity. It is conceivable that the physical structure of these lines is not in all cases adapted to the transportation of every kind and gravity of oil. We shall, accordingly, modify our former order so as to provide that rates be filed for the transportation of crude oil, petroleum or the products thereof, of the kind and character in the transportation of which each company is engaged.

We submit herewith the following form of order:

ORDER ON APPLICATIONS FOR REHEARING.

Applications for rehearing in this proceeding having been filed by General Pipe Line Company of California, Associated Pipe Line Company, Southern Pacific Company, Kern Trading and Oil Company, and Associated Oil Company in behalf of Associated Pipe Line Company, Associated Oil Company and Producers Transportation Company, and the Commission being of the opinion that its order heretofore made in the proceeding should be modified in accordance with the foregoing opinion, and basing its order herein upon all the findings of fact contained in the opinion and order heretofore made in this proceeding on December 31, 1914, as modified by the foregoing opinion,

It is hereby ordered that paragraph 2 of the order heretofore made in this proceeding on December 31, 1914, be and the same is hereby amended to read as follows:

It is hereby ordered that Associated Oil Company, Producers Transportation Company, Associated Pipe Line Company, and General Pipe Line Company of California file with this Commission on or before April 12, 1915, schedules of rates and charges for the transportation of crude oil, petroleum or the products thereof, of the kind and character in the transportation of which each of said companies has been engaged, by means of pipe lines from the San Joaquin Valley oil fields in the State of California, and their rules and regulations in connection with such transportation.

Nothing in this order contained shall apply to crude oil, petroleum or the products thereof being transported in commerce with foreign nations or among the several states.

It is further ordered that in all other respects the applications for rehearing filed in this proceeding be and the same are hereby denied.

Dated at San Francisco, California, this 18th day of March, 1915.

DECISION No. 2242.

IN THE MATTER OF THE APPLICATION OF THE GLENDORA WATER COMPANY TO SELL AND OF THE CITY OF GLENDORA TO BUY A DOMESTIC DISTRIBUTING SYSTEM.

Application No. 1509.

Decided March 18, 1915.

Glendora Water Company authorized to transfer its water distributing system to the City of Glendora for the sum of \$11,450.00.

Rolfc B. Bidwell, for Glendora Water Company and City of Glendora.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Glendora Water Company for authority to sell a pipe line system located in the city of Glendora to the city of Glendora.

The property proposed to be sold is described in a contract, a copy of which is attached to the application herein. This contract provides that the city shall assume obligations of the water company for the delivery of water. The price to be paid by the city for the water system is set out in the agreement as \$11,450.00. To provide this sum the electors of Glendora have already voted favorably on a bond issue.

The price which the city is paying for this water system I am satisfied from the evidence is a very reasonable one and it is undoubtedly to the advantage of all concerned that this sale be made. Therefore, I recommend the application be granted.

Herewith a form of order:

ORDER.

Application having been made by Glendora Water Company for an order authorizing the sale of its property to the city of Glendora, and a public hearing having been had and it appearing to the Commission that said application should be granted,

It is hereby ordered by the Railroad Commission of the State of California that Glendora Water Company is hereby authorized to sell, convey and dispose of to the city of Glendora all that certain property described as follows:

“All that certain property known as the pipe line system of the Glendora Water Company which is south of the center line of that certain avenue in said city of Glendora known as Sierra Madre avenue and south of said line prolonged easterly and westerly from the intersection of said center line with the pipe line now running from the reservoir of the seller to said Sierra Madre avenue together with all connections, meters, turnouts, easements and rights of way for pipe lines now owned by the seller, save and

except that the seller reserves and excepts therefrom such right to lay pipes and conduits underneath the surface of the public highways of the buyer, lots and grounds as it may have heretofore acquired for the purpose of providing irrigating water to its consumers, provided that the laying of such pipe and conduits shall be done in accordance with and pursuant to the ordinances and resolutions of the buyer in force and effect at the time of the performance of such work."

Said property shall be conveyed for the considerations and under the terms set out in the contract dated January 8, 1915, between Glendora Water Company and the city of Glendora.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of March, 1915.

DECISION No. 2243.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA TRACTION COMPANY AND STOCKTON ELECTRIC RAILROAD COMPANY FOR APPROVAL OF A CERTAIN AGREEMENT, ALSO FOR THE ABANDONMENT OF CERTAIN PORTIONS OF THE STREET RAILWAY SYSTEM IN THE CITY OF STOCKTON AND THE CANCELLATION OF CERTAIN PASSENGER RATES.

Application No. 1470.

Decided March 18, 1915.

Central California Traction Company, during the construction of its line of railway between Stockton and Sacramento, constructed certain street car lines in the city of Stockton in competition with the lines of the Stockton Electric Railway; these street car lines it contends are unprofitable and submits a plan for the approval of the Commission providing for the lease of certain lines to the Stockton Electric and the abandonment of others, also for the cancellation of the present \$1.00 26-ride books good within the city of Stockton. A number of protestants object to the granting of application as applied for, claiming that the discontinuance of service as proposed would work considerable hardship on residents along such rights of way and also greatly depreciating property values.

Held, That the lease of property of Central California Traction Company to Stockton Electric Company as proposed would be advantageous to patrons of such lines, insuring a better service with universal transfer privileges. That the present patronage does not justify the continuance of service along the Vine-San Joaquin street line and the McKinley avenue-Eighth street line, as residents adjacent thereto will be adequately served by lines of the Stockton Electric Company. **Application to abandon the Park street and Cherokee lane lines denied**, considering that applicant proposes to maintain these lines for freight service and that to discontinue passenger service would greatly inconvenience people at present using same, there being no other transportation lines adjacent to this territory. Central California Traction Company authorized to discontinue the sale of 26-ride books as the establishment of a universal transfer service will greatly offset any inconvenience caused thereby, the establishment of such transfer service being conditioned upon the effectiveness of this order.

Geo. A. Ditz, for protestants south of Center street and on both sides of McKinley avenue.

Chas. Light, for protestants from Sunnyside.

Otto Von Dettern, and *Irving Martin*, for Security Building and Loan Association.

Guy C. Earl, and *Chaffee E. Hall*, for Applicants.

L. S. Woodruff, for certain church interests in Sunnyside.

REPORT OF THE COMMISSION.

DEVLIN and GORDON, *Commissioners*.

This is an application filed jointly by the Central California Traction Company and the Stockton Electric Railroad Company for permission to lease certain portions of the street railway system of the applicant, Central California Traction Company, to the Stockton Electric Railroad Company; also for permission to abandon and remove certain portions of the line and for the cancellation of a rate of \$1.00 for twenty-six rides upon the street railway lines of the Central California Traction Company within the city of Stockton.

The Stockton Electric Railroad Company has for many years been operating a street railway system in the city of Stockton and some years ago when the Central California Traction Company constructed an interurban line between the city of Sacramento and the city of Stockton it constructed in connection with its interurban system a street railway system on certain streets in the city of Stockton. This street railway system generally paralleled and came into direct competition with the lines of the Stockton Electric Railroad.

The operation of two street railways systems within the city of Stockton is alleged by the applicant, Central California Traction Company, to have been extremely unprofitable, and it is now desired to lease to the Stockton Electric Railroad Company such portions of its city lines as can be used to advantage by the Stockton Electric Railroad Company and abandon and tear up the remainder.

The Stockton Electric Railroad Company proposes to pay for the lease of the lines over which operations will continue the sum of \$12,500.00 per annum for the first three years and \$15,000.00 per annum for the remaining period of the lease, which is to run from January 1, 1915, to January 1, 1953.

By the terms of the agreement which is submitted to the Commission for approval the Stockton Electric Railroad will take over under lease and operate as part of its system a double track line on Center street running north from South street to Weber avenue and the lines along Weber avenue, with diverging branches on Aurora street as far as Park street and on Pilgrim street as far south as Taylor street. It is also proposed to continue in operation the branch on Vine street from El

Dorado street to Madison street, connecting the same with the present street railway tracks of the Stockton Electric Railroad at the corner of El Dorado and Vine streets.

It is proposed to abandon and remove the tracks presently in operation on Vine street from the corner of El Dorado street, thence easterly to San Joaquin street and southerly to Weber avenue, the traffic of this line to be either handled on the El Dorado street line or the California street line of the Stockton Electric Railroad.

It is further proposed to abandon the present line of the Central California Traction Company south of South street along what is known as McKinley avenue to its intersection with Eighth street, thence easterly along Eighth street to its intersection with San Joaquin street.

It is further proposed to abandon that portion of the Central California Traction Company's street railway system extending easterly along Park street from the corner of Aurora to Union street.

The applicant further desires to continue the operation of the line east of Union street on Park street and along Cherokee lane for freight service only.

Various protestants were present at the hearing of this application in Stockton and set forth in detail their objections for the abandonment of service, and it is sufficient to say that these objections were principally confined to the abandonment of service on McKinley avenue south of South street to what is known as the Mineral Baths and the discontinuance of passenger service on the Cherokee lane line.

No protests were received concerning the abandonment of the line on San Joaquin street north from Weber avenue. The objection to the abandonment of the line for two blocks on Park street running east from Aurora street to Union street was concerned only in the fact that this piece of track is necessary to give an outlet for the Cherokee lane line and if suitable connections were made with the Cherokee lane line at any other point the objection to the removal of the track on Park street is of little moment.

In its petition the applicant, Central California Traction Company, maintains that the value of the line to be leased to the Stockton Electric Railroad is \$134,000.00 and the present value of the line proposed to be abandoned is approximately \$53,000.00.

The principal contention of the applicant, Central California Traction Company, is that the maintenance and operation of its present street railway system in the city of Stockton is a useless and unnecessary duplication of service and that the same is operated at a heavy loss. The testimony introduced by the applicant, Central California Traction Company, tended to show that its street car lines in the city were, as a fact, operated at a loss and that the service maintained by its lines was vastly inferior to that of the Stockton Electric Railroad.

Much testimony was given to demonstrate the fact that a consolidation with the Stockton Electric Railroad of such parts of the Central California Traction Company's street lines as it is proposed to keep in operation will greatly reduce the cost of operation and increase the efficiency of the service. It goes without saying that the consolidation of these systems will reduce overhead expenses, power consumption and other items of expense which today are incurred by this apparently useless duplication of service.

The schedules of the Stockton Electric Railroad indicate that the service is much more frequent on that line than on the Central California Traction Company's lines, and with the taking over of that portion of the latter company's tracks which it is intended to continue in operation a service much superior to that given at present will be enjoyed by the public.

At present the Stockton Electric Railroad operates a line on El Dorado street north from Weber avenue and another on California street north from Weber avenue. The distance between El Dorado street and California street is four blocks and at present the Central California Traction Company operates on San Joaquin street midway between the two lines of the Stockton Electric Railroad. With the abandonment of the line on San Joaquin street patrons of the street car lines will have to walk, at most, two blocks to reach a line of the Stockton Electric Railroad. No protests were received against the abandonment of this line and the same received the approval of the city authorities of Stockton by appropriate resolution.

Under the circumstances, we are convinced that the abandonment of the line on San Joaquin avenue north from Weber avenue to Vine street, thence westerly to El Dorado street, will not operate to the disadvantage of the citizens of Stockton, and the same should be permitted.

Considerable protest was made concerning the abandonment of the line south of South street along McKinley avenue and easterly on Eighth street from McKinley avenue to San Joaquin street; it is approximately two blocks from McKinley avenue to San Joaquin street. The present street car service of the Central California Traction Company is on a twenty minute headway while on the Stockton Electric Railroad on San Joaquin street the cars are operated on a headway of seven and one-half minutes. The section tributary to the McKinley avenue extension of the Central California Traction Company south of South street is sparsely settled, there being approximately fifty houses in a distance of eight blocks which, at the most, would be located two blocks further distant from a street railway with the abandonment of the McKinley avenue line of the Central California Traction Company than they are today.

The record clearly indicates that the patronage received by the Central California Traction Company from the operation of the McKinley avenue line does not justify its continuance. It was pointed out that the great majority of people patronizing this line rode from and to the Mineral Baths at the terminus thereof and would be more adequately served by the San Joaquin street line of the Stockton Electric Railroad.

It is not the desire of the Commission to deprive the people of the Mossdale tract and that territory now served by the McKinley avenue line of adequate street car facilities, but it must be apparent that the line can not continue operations under present conditions. The more frequent and reliable service on San Joaquin street and the more frequent service on Center street, which was assured by the general manager of the Stockton Electric Railroad if that company is permitted to lease the Center street line from the Central California Traction Company, together with the universal transfer system, more than compensates the residents tributary to the McKinley avenue line for the discontinuance of service south of South street. It is two blocks distant from McKinley avenue to San Joaquin street, and one of the principal reasons advanced by protestants against the abandonment of service on McKinley avenue south of South street was that roads were impassable and that there were no sidewalks which could be used by pedestrians on San Joaquin street car line. The general manager of the Stockton Electric Railroad stated that his company was willing to build a board walk between San Joaquin street and McKinley avenue so as to make it more convenient for pedestrians. A walk of two blocks to a street car line does not appear to us to impose any particular hardship on the citizens of any district.

No protest was received against the abandonment of the track of the Central California Traction Company on San Joaquin street north from Weber avenue, which will require citizens to walk two blocks either to California street or El Dorado street. Of course, the streets in this section of the city are perhaps in better condition than they are from McKinley avenue to San Joaquin street in the vicinity of the Mossdale tract, but the railroad company is not responsible for this condition and doubtless the city authorities can be prevailed upon to make the necessary improvements so that it will be no more burdensome to reach the car line in the vicinity of the Mossdale tract than it is north of Weber avenue.

Considering this feature of the application, we are of the opinion that permission should be granted to discontinue and abandon the service on McKinley avenue south of South street and east of McKinley avenue on Eighth street to San Joaquin street.

Substantial advantages will accrue to the citizens of Stockton by the establishment of a universal transfer system whereby passengers

may ride for one fare of five cents between any points served by the Stockton Electric Railroad and points now reached by the Central California Traction Company on such of the lines as will remain in operation.

Considering now the abandonment of the line on Park street from Aurora street to Union street and the discontinuance of passenger service on the Cherokee lane line: It is necessary first to consider that portion of this line running along Cherokee lane and serving what is known as the Sunnyside District. It is not proposed to abandon and tear up this piece of track but the applicant desires to discontinue passenger service thereon and restrict the same exclusively to freight service. Vigorous protest was entered against this feature of the application by many residents in the Sunnyside and adjoining districts who testified to the great injury which would result to their property should the passenger service be discontinued.

This situation differs radically from the abandonment of the lines on San Joaquin street and on McKinley avenue which, for reasons hereinbefore stated, will be reasonably cared for. The Sunnyside District will be left practically without any service whatever except an occasional interurban car running on an infrequent schedule between Sacramento and Stockton. Such a service would, in our opinion, be wholly inadequate. Considerable testimony was given relating to the cost of maintenance of this line, but it must be remembered that such maintenance charges will continue to be present as long as the line is operated for freight service. A number of witnesses testified that they had purchased property and erected homes on the faith of the continuance of this service, and we are not willing to approve an application which will have the effect of not only depreciating the value of the property of the citizens of this section but also depriving them of any adequate service whatever. We are, therefore, of the opinion that no adequate reason was advanced why passenger service on the Cherokee lane line should be discontinued.

It necessarily follows, therefore, that the abandonment of the line from Park street at its intersection with Aurora street to Union street can not be approved until such time as the applicant presents to the Commission a plan for the operation of through cars via some other of its lines in connection with the Cherokee lane line.

The cancellation of the rate on file with the Commission providing for the sale of commutation books good for twenty-six trips for \$1.00 is, in our judgment, more than overcome by the universal transfer system, and we must bear in mind that not only has this proposed cancellation been approved by the city authorities of Stockton but also the entire plan for the leasing of the Central California Traction

Company's city lines to the Stockton Electric Railroad and the abandonment of such lines as are proposed by the applicant.

In connection with the agreement whereby the Stockton Electric Railroad will operate certain portions of the street railway system of the Central California Traction Company, it must be borne in mind that the Tidewater Southern Railway, an interurban line running between Modesto and Stockton, uses the tracks of the Central California Traction Company as an entrance into the city of Stockton. The arrangement by which the Tidewater Southern Railway operates over the tracks of the Central California Traction Company expires in a short time and it is the understanding of the Commission that the Tidewater Southern Railway desires to renew the arrangement. It was testified to by witnesses for the applicant, Central California Traction Company, that there was no objection to renewing this arrangement, but it must be remembered that if this agreement is approved the renewing of the lease will not rest with the Central California Traction Company but with the Stockton Electric Railroad, a subsidiary corporation of the Southern Pacific Company.

The arrangement by which the Tidewater Southern Railway is permitted to enter the city of Stockton is not only advantageous to that company but also to the entire community served by its lines between Stockton and Modesto, and incidentally to the citizens of Stockton, for the reason that it confines the operations of this line to streets already occupied and thereby concentrates the railroad traffic on certain streets instead of having it spread out over a number of streets.

The arrangement by which the Tidewater Southern Railway is permitted to enter Stockton over the tracks of the Central California Traction Company should be renewed on an equitable basis by the Stockton Electric Railroad, and such order as the Commission makes in this application should contain a condition that such an arrangement be entered into.

In connection with this application it developed that the interurban line of the Central California Traction Company between the city of Stockton and the city of Sacramento has been placed under the management of the general manager of the Stockton Electric Railroad who acts in a similar capacity with reference to the Fresno Traction Company and the Visalia Electric Railway, all of which corporations are subsidiaries of the Southern Pacific Company. Naturally, should this agreement be approved, the present general manager of the Stockton Electric Railroad would not only operate that property but such portions of the Central California Traction Company's street railway as are covered by the proposed lease, the entire property being hereafter known as the Stockton Electric Railroad, at least during the continuance of the lease.

The operation of the main line or interurban portion of the Central California Traction Company from Stockton to Sacramento is an entirely separate and distinct matter and in no way involved in the merits of the present application. The granting of the application, with such restrictions as the Commission deems necessary in public interest, does not in any way affect the operation of the interurban system between Stockton and Sacramento. That portion of the Central California Traction Company's lines, we understand and the testimony so indicates, will continue to be operated as heretofore, the only difference being that the general manager of the street railway system in Stockton exercises like authority over the interurban operations.

It was vigorously denied by witnesses who are the principal stockholders in the Central California Traction Company that it was their intention to sell the line to the Southern Pacific Company or that any negotiations were pending and stated that the supervision of the main line operations exercised by the general manager of the Stockton Electric Railroad were simply in the interest of economy. Messrs. Fleishhaecker and Anderson testified positively that a sale or transfer of the interurban line of the Central California Traction Company to the Southern Pacific Company was not contemplated and that the management of the line by the general manager of the Stockton Electric Railroad was not any part of a plan whereby the Southern Pacific Company would either obtain possession of the property or direct its policies.

We have no reason to doubt the sworn testimony of these witnesses. At the same time, it is well to call attention to the fact that this feature of the case presents a most unusual aspect. The Central California Traction Company is to all intents and purposes a competing line with the Southern Pacific Company's line running northerly from Stockton to Sacramento, and in places closely parallels it, and we have here a most remarkable situation of a supposedly competing line being managed by an official of certain subsidiaries of its competitor. The competition may be either actual or fictitious but it has nothing to do with the merits of this particular application.

At the same time, it may be well to call attention of the officials of the Central California Traction Company and the Southern Pacific Company to the fact that the Commission does not look with favor upon any act which might be employed to evade the provision of section 51 of the Public Utilities Act. We can not, therefore, assume that the applicants have any intention of evading that section of the Public Utilities Act above referred to.

We frankly concede that the operation of the street railway system in the city of Stockton has absolutely no bearing on the operation of the interurban line of the Central California Traction Company. What-

ever may be the intentions of the owners of the Central California Traction Company so far as the interurban part of the line is concerned does not alter the situation with reference to the city lines operating wholly within the city of Stockton, and, while we discountenance any attempt to evade the provisions of the Public Utilities Act with reference to the interurban line, we see no reason why the motives behind the operation of the Central California Traction Company's interurban line should receive consideration in dealing with the local street railway situation within the city of Stockton. Should we consider at any future time that the Central California Traction Company's interurban line is being operated in violation of or in evasion of the Public Utilities Act, appropriate steps will be taken to enforce compliance with the statute.

It is assumed, of course, that the Central California Traction Company has made proper arrangements and secured necessary permission from trustee for bondholders for the abandonment and removal of such portions of its line as it proposes to tear up.

We submit the following order:

ORDER.

Central California Traction Company and Stockton Electric Railroad Company having filed with this Commission an application for the approval of a certain agreement, also the abandonment of certain portions of the street railway system in the city of Stockton and the cancellation of certain passenger rates, and a regular hearing having been had and the Commission being apprised in the premises, and basing its order on the findings appearing in the opinion which precedes this order,

It is hereby ordered:

1. That the proposed agreement calling for a lease to the Stockton Electric Railroad of certain portions of the street railway line of the Central California Traction Company within the city of Stockton be and the same is hereby approved.

2. The application to abandon and remove tracks of the Central California Traction Company presently in operation on Vine street from the corner of El Dorado street, thence easterly to San Joaquin street and southerly on San Joaquin street to Weber avenue, be and the same is hereby granted.

3. The application to abandon tracks of the Central California Traction Company presently in operation on McKinley avenue south of South street to its intersection with Eighth street, thence easterly along Eighth street to San Joaquin street, is hereby granted.

4. Application to abandon that portion of the tracks of the Central California Traction Company presently in operation on Park street from Aurora street to Union street is hereby denied.

5. Application to discontinue the operation of passenger service on the line east of Union street on Park street and along Cherokee lane is hereby denied.

6. Application to discontinue sale of twenty-six-ride commutation tickets for \$1.00 is hereby granted.

7. That equitable arrangements for the joint use of tracks now used by the Tidewater Southern Railway and the Central California Traction Company be entered into for the continued joint use and operation of such tracks by the Tidewater Southern Railway and the Stockton Electric Railroad when it takes over the line of the Central California Traction Company.

8. That upon commencement of operations by the Stockton Electric Railroad of the property of the Central California Traction Company covered by this lease a universal transfer system be put in effect and operation.

9. That applicant, Stockton Electric Railroad, in accordance with promises made by its general manager at the time of the hearing, construct between McKinley avenue and San Joaquin street along a cross street best calculated to suit the convenience of the citizens of the Mossdale tract a substantial sidewalk.

10. That the applicant, Central California Traction Company, present to the Commission within twenty (20) days from date hereof satisfactory proof that suitable arrangements have been made with the trustee for bondholders consenting to the abandonment and removal of the tracks hereinbefore mentioned in this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 18th day of March, 1915.

DECISION No. 2244.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF THE APPLICANT'S FIRST MORTGAGE BONDS TO THE AMOUNT OF THREE HUNDRED THOUSAND DOLLARS.

Application No. 1391.

Decided March 19, 1915.

Applicant having complied with the requirements contained in the original order upon its application to issue bonds which provided for a readjustment of contracts as regards the profits accruing on construction work performed for it by the Sierras Construction Company, an allied corporation, it is authorized to issue \$300,000.00 of its 6 per cent bonds to be sold at not less than 90, proceeds to be applied to the retirement of outstanding notes and accounts payable, the balance for partial payment of indebtedness to the Nevada, California Power Company.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

FIRST SUPPLEMENTAL OPINION.

On February 27, 1915, this Commission issued an order in the above entitled matter (Decision No. 2175) authorizing The Southern Sierras Power Company to issue \$300,000.00 of its first mortgage 6 per cent 25-year bonds under its mortgage and deed of trust to the International Trust Company of Denver, trustee, dated September 1, 1911, and a supplemental mortgage and deed of trust thereto dated March 1, 1912. The order in this matter provided that the bonds therein authorized should be issued after the applicant had adjusted its accounts with the Sierras Construction Company and other corporations, to the end that the profit which it was proposed should accrue to the Sierras Construction Company should be eliminated, for the reason that the Sierras Construction Company was controlled by the same individuals who owned and controlled the applicant herein. It was further provided that the applicant should file certain data which have since been supplied.

In the adjustment, as made in accordance with this Commission's requirement, the profit which was to have accrued to the Sierras Construction Company has been eliminated and this amount has been saved to the Southern Sierras Power Company.

No change has been made in the applicant's accounts with Nevada-California Power Company, but I do not believe it is necessary that such adjustment should be made as a condition precedent to a further order in this matter. The Commission, of course, will reserve the right to pass hereafter upon the value of such water rights and power plants as The Southern Sierras Power Company has purchased from the Nevada-California Power Company or other related corporations.

The engineers of this Commission have found that the construction work of this corporation has been performed economically and under the arrangement now made with the construction company the full benefit of these economies will go to The Southern Sierras Power Company.

Accordingly, I recommend the following supplemental order:

ORDER.

The Southern Sierras Power Company having applied to this Commission for authority to issue \$300,000.00 of its first mortgage 6 per cent 25-year bonds under its mortgage and deed of trust to the International Trust Company of Denver, trustee, dated September 1, 1911, and a supplemental mortgage and deed of trust thereto dated March 1, 1912, a copy of which has been filed in connection with the application herein and marked Exhibit "D," to which reference is hereby made.

And a hearing having been held and it appearing that the purposes for which said bonds are to be issued are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered that The Southern Sierras Power Company be given authority and it is hereby authorized to issue \$300,000.00 of its 6 per cent 25-year bonds under its mortgage and deed of trust to the International Trust Company of Denver, trustee, as heretofore described.

This order is made upon the following conditions:

(1) The bonds herein authorized to be issued shall be sold so as to net the applicant not less than 90 per cent of the face value thereof, plus the accrued interest thereon.

(2) The proceeds derived from the sale of bonds herein authorized to be issued shall be applied to the following purposes, and not otherwise:

| | |
|--|-------------|
| (a) For the retirement of outstanding notes of The Southern Sierras Power Company as listed in the application herein----- | \$35,364 85 |
| (b) For the payment of accounts payable as listed in the application herein ----- | 14,638 75 |
| (c) For partial payment of indebtedness to Nevada-California Power Company, which was listed by the applicant in the total amount of ----- | 995,584 01 |

(3) The applicant shall issue the bonds herein authorized only after it shall have complied with the provisions of its mortgage or deed of trust above described, and particularly with that section which provides that its bonds shall be issued only after its earnings shall have been, for a specified period, one and one half times the interest on its bonds outstanding and the bonds proposed to be issued.

(4) The Southern Sierras Power Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

(6) The authority herein granted shall apply only to such bonds as shall have been issued on or before December 31, 1915.

The foregoing first supplemental opinion and order are hereby approved and ordered filed as the first supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of March, 1915.

DECISION No. 2245.

IN THE MATTER OF THE APPLICATION OF C. M. KIRBY FOR PERMISSION TO SELL, ASSIGN AND TRANSFER TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY ALL RIGHT, TITLE AND INTEREST IN AND TO THE TELEPHONE PROPERTIES OF SAID C. M. KIRBY, LOCATED AT DIXON, SOLANO COUNTY, CALIFORNIA, AND OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY TO PURCHASE ALL SAID TELEPHONE PROPERTY OF SAID C. M. KIRBY, LOCATED AT DIXON, SOLANO COUNTY, CALIFORNIA.

Application No. 1577.

Decided March 19, 1915.

C. M. Kirby authorized to sell his telephone system operating in the town of Dixon and known as the Dixon Mutual Telephone Company to the Pacific Telephone and Telegraph Company for the sum of \$500.00.

James T. Shaw and H. D. Pillsbury, for Pacific Telephone and Telegraph Company.

C. M. Kirby, in propria persona.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

The Dixon Mutual Telephone Company, prior to the month of April, 1914, owned a system of telephone lines in the town of Dixon and nearby territory, Solano County, connecting with a central switchboard located in Dixon and operated by C. M. Kirby. This system was constructed and placed in operation a number of years ago by local people whose original purpose was to secure telephone service among themselves. Nominal rates were charged, which in time proved to be insufficient to cover the cost of operation, and, as a result, the service was allowed to become inefficient and unsatisfactory. The Pacific Telephone and Telegraph Company is also operating an exchange in Dixon with lines serving the same territory which the local company's lines served, and, following certain negotiations between representatives of the two companies looking to a consolidation of the two systems, the local company's patrons were disconnected on April 1, 1914, from its switchboard and connected with the Pacific Company's exchange.

The application now before the Commission is for the purpose of securing the necessary Commission authorization to close the transaction by a sale and transfer of the property involved to the Pacific Company for the sum of five hundred (500) dollars. The property which it is desired to transfer is briefly described in Exhibit "A," which is made a part of the application.

These two systems, which were competitive in nature, were placed in operation before the Public Utilities Act conferred jurisdiction in such cases upon the Railroad Commission. The consolidation, however, was

effected after the Public Utilities Act, which provides that the Commission's permission to such transactions shall be obtained, became effective, and although there has been considerable delay in presenting the matter to the Commission for formal action, it appears that the delay has arisen as a result of some doubt on the part of representatives of the two companies as to whether the local company was operating as a public utility and, therefor, whether the case would properly come within the provisions of the act, rather than through any desire to evade its provisions.

From Mr. Kirby's testimony, it appears that, except in two possible individual instances in which increases in rates over the rates formerly in effect by the Dixon Mutual Telephone Company resulted, the change has not resulted in higher rates being charged the patrons of that company, while in some instances the aggregate rates formerly charged have been reduced by the elimination of duplicate telephones which were formerly necessary with the two systems in operation. It has also brought about more adequate and more satisfactory service to the patrons of both companies and has resulted in relieving the local company of its responsibilities as a public utility, a result which it desired since it is without the means of adequately meeting those responsibilities.

With reference to the amount involved in the transfer of this property, while the Commission withholds its approval of this amount as a valuation of the property involved, it appears to be sufficient for the purposes of this proceeding. It appears further that the public interest will be subserved by the completion of this transfer and I shall recommend that the application be granted.

ORDER.

Application having been made by C. M. Kirby for permission to sell, assign and transfer to the Pacific Telephone and Telegraph Company, and by the Pacific Telephone and Telegraph Company to purchase all right, title and interest in and to the telephone property of said C. M. Kirby, located at Dixon, Solano County, California, as set forth in the preceding opinion, for the sum of five hundred (500) dollars, and a hearing having been held, and no reasonable objection appearing, and it appearing to this Commission that the public necessity and convenience will be subserved thereby,

It is hereby ordered that the application herein be and it is hereby granted.

Provided that the amount of five hundred (500) dollars specified in the application to be paid for the transfer of this property is not to be taken by this Commission or other authority as a basis for rate-making or other purposes.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of March, 1915.

DECISION No. 2246.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY AND RIVERSIDE, RIALTO AND PACIFIC RAILROAD COMPANY FOR AUTHORITY TO ENTER INTO AN AGREEMENT FOR JOINT OPERATION BY THE PACIFIC ELECTRIC RAILWAY COMPANY OF THE RAILROAD AND TRACKS OF THE RIVERSIDE, RIALTO AND PACIFIC RAILROAD COMPANY IN THE COUNTIES OF RIVERSIDE AND SAN BERNARDINO, CALIFORNIA.

Application No. 1581.

Decided March 19, 1915.

Application of the Pacific Electric Railway Company and the Riverside, Rialto and Pacific Railroad Company for the approval of an operating agreement whereby the former company operates its passenger cars over the line of the latter company, granted.

Frank Karr, for Pacific Electric Railway Company.

Allen Chickering, for Riverside, Rialto and Pacific Railroad Company.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

In this application the Pacific Electric Railway Company and the Riverside, Rialto and Pacific Railroad Company ask the Commission to approve an arrangement which these corporations have entered into, the conditions of which are set forth in a certain agreement made and entered into on the 1st day of March, 1915, by and between the Riverside, Rialto and Pacific Railroad Company, a corporation incorporated under the laws of the State of California, party of the first part, and the Pacific Electric Railway Company, a corporation incorporated and consolidated under the laws of the State of California, party of the second part, copy of this agreement having been filed with the pleadings and marked "Exhibit B." It recites that the party of the first part, the Riverside, Rialto and Pacific Railroad Company, is the owner of a certain line of railway and appurtenances in the counties of Riverside and San Bernardino; that the party of the second part, the Pacific Electric Railway Company, desires to use said railway in common with the party of the first part, to which use and operation party of the first part is agreeable. The conditions under which such operation is to be carried on are then set forth in the agreement with great particularity and finally provide for arbitration in case of a disagreement as to any

of the provisions of the agreement. Reference is hereby made to the copy of the agreement filed as an exhibit in this application, and further explanation as to such agreement is considered unnecessary.

The Pacific Electric Railway Company has, in the past, operated a local passenger service only over the lines of the Riverside, Rialto and Pacific Railroad Company and its predecessors, under an agreement which has now expired by limitation.

In the agreement, approval of which is now asked, a larger use of the railroad of the party of the first part, Riverside, Rialto and Pacific Railroad Company, is contemplated by the Pacific Electric Railway Company, which larger use and operation it was testified at the hearing would be a matter of convenience and benefit to the people who live along the line of and patronize the Riverside, Rialto and Pacific Railroad Company, and would give to such patrons a through route to Los Angeles. The proposed arrangement whereby through cars will be operated from points on the Riverside, Rialto and Pacific Railroad Company to Los Angeles on the Los Angeles-San Bernardino line of the Pacific Electric Railway is one that will conveniently serve the traveling public, and the application of the operating methods of the Pacific Electric Railway Company to the passenger service of the line of the Riverside, Rialto and Pacific Railroad Company will unquestionably give better service than would be enjoyed were the Riverside, Rialto and Pacific Railroad Company to continue its passenger operation. As the line was primarily constructed for the purpose of serving the cement plant at Crestmore, and the passenger business only incidental in a small way thereto, a better service may well be expected under the operation proposed by the Pacific Electric Railway Company, I see no reason, from the standpoint of public interest, why the agreement should not receive the approval of this Commission, and I therefore find that it should and recommend the following order:

ORDER.

The Pacific Electric Railway Company and the Riverside, Rialto and Pacific Railroad Company having applied to this Commission for the approval of an agreement, entered into by these two corporations, comprehending joint operation by these two roads of the railroad and tracks of the Riverside, Rialto and Pacific Railroad Company in the counties of Riverside and San Bernardino, and a public hearing having been held, the Commission having given the agreement which was filed with the application, marked "Exhibit B," careful consideration, and having found that the public will doubtless be convenienceed by such joint operation as set forth in the opinion preceeding this order, and having found further that the agreement should be approved as prayed for,

It is hereby ordered that the agreement entered into on the 1st day of March, 1915, by and between the Riverside, Rialto and Pacific Railroad Company, a corporation incorporated under the laws of the State of California, and the Pacific Electric Railway Company, a corporation incorporated and consolidated under the laws of the State of California, by the terms of which the said Riverside, Rialto and Pacific Railroad Company and the said Pacific Electric Railway Company shall jointly operate the railroad of the Riverside, Rialto and Pacific Railroad Company from Rialto to Riverside according to the terms and conditions set forth in said agreement, be and it is hereby approved.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of March, 1915.

DECISION No. 2247.

GOLDEN STATE PORTLAND CEMENT COMPANY

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, RIVERSIDE PORTLAND CEMENT COMPANY, AND CALIFORNIA PORTLAND CEMENT COMPANY, INTERVENORS.

Case No. 576.

Decided March 22, 1915.

Complainant attacks the present rate of \$1.75 per ton of 2,000 pounds in effect on cement in carload lots between Oro Grande and Los Angeles, alleging that such rate is exorbitant and unreasonable and petitioning the Commission to establish a rate of 82½ cents for such service. At the hearing complainant being unable to substantiate its claim that the present rate was unjust, complaint dismissed, though recommendation made that in line with the recently established rate of \$1.25 per ton from Crestmore to Los Angeles, defendant establish a like rate from Oro Grande to Los Angeles and a proportional rate from Oro Grande to San Diego on shipments moving to that port for shipment by ocean carriers.

Richard J. Culver, for Complainant.

E. W. Camp, for Defendant.

Seth Mann, for Riverside Portland Cement Company, Intervenor.

Fred P. Gregson, for California Portland Cement Company, Intervenor.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

The complainant in this case, the Golden State Portland Cement Company, is a corporation engaged in the business of manufacturing Portland Cement at Oro Grande in San Bernardino County on the line of The Atchison, Topeka and Santa Fe Railway, and it alleges in its

complaint that the rate of \$1.75 per ton of 2,000 pounds maintained and charged by that company for the transportation of cement in carload quantities from Oro Grande to Los Angeles is unjust, unreasonable and excessive in and of itself and as related to the rates on cement from Colton and Crestmore to Los Angeles. In this latter respect it is contended that the rate from Oro Grande to Los Angeles should not exceed the rate from Crestmore and Colton to Los Angeles by more than 12½ cents per ton of 2,000 pounds. Complaint is also made of defendant's failure to establish and maintain a rate on cement, in carload quantities, from Oro Grande to San Diego for transshipment, thence by water carriers similar to the rate which the defendant has established and maintained from Crestmore and Colton to San Diego. The Commission is requested to establish a rate of 82½ cents per ton of 2,000 pounds on cement from Oro Grande to Los Angeles as a just and reasonable rate. In its answer the defendant denies the material allegations of the complaint.

The California Portland Cement Company engaged in the manufacture of cement at Colton and Riverside Portland Cement Company engaged in the manufacture of cement at Crestmore, asked leave and were granted permission to intervene in this proceeding. The product of these plants is sold in competition with the product of the plant operated by the complainant herein and these shippers would be affected by any change in the existing relationship of the rates on cement to Los Angeles.

In support of its contention of the unreasonableness of the rate on cement from Oro Grande to Los Angeles the complainant submitted a number of tables showing the rates charged for the transportation of cement for similar distances in other states, but in connection therewith it introduced no evidence as to the transportation conditions or circumstances surrounding the service at those rates, and it is therefore impossible for the Commission to reach any conclusion from this comparison. The Commission can not base its order upon mere rate comparisons pointed out from tariffs, some of which are not on file with it, without being fully advised of the facts and conditions surrounding the service afforded on the rates offered in comparison. A statement was also submitted by the complainant showing the average car mile earnings of The Atchison, Tokepa and Santa Fe Railway, coast lines, for the last nine months of the fiscal year ending 1913 on certain selected commodities for distances from 1 to 150 miles, but such averages reflecting as they do earnings on rates established under various conditions of transportation do not, standing alone, afford a basis for rates for a service which may be essentially different.

The rate from Oro Grande to Los Angeles is 25 cents per ton higher than the carload rate on cement maintained by the defendant from

Colton and Crestmore to Los Angeles. The distance from Oro Grande to Los Angeles is approximately 110 miles, whereas the distance from Colton to Los Angeles via the line of defendant is approximately 63 miles and the distance from Crestmore to Los Angeles via the Crescent City Railway and defendant's line is approximately 64 miles, and the short line distance from Crestmore to Los Angeles is but 55 miles.

It appears from the record that there is a heavy grade between Oro Grande and Colton, whereas between Colton and Los Angeles the grades are relatively slight; also that a much greater empty car haul is necessary to supply cars for loading at Oro Grande than at Crestmore or Colton and that the service rendered in transporting cement from Oro Grande to Los Angeles is materially greater than the service rendered in transporting the same commodity from Crestmore and Colton to Los Angeles, and it is my opinion that the difference in the services rendered fully justifies the difference in the rates.

After a full consideration I am of the opinion that the complainant has not sustained the allegations of its complaint and shown the rates complained of to be unreasonable or discriminatory, and it follows, therefore, that the complaint should be dismissed.

In its decision recently rendered in Case 539, *Riverside Portland Cement Company vs. San Pedro, Los Angeles and Salt Lake Railroad Company et al.*, involving the carload rates on cement from Crestmore to Los Angeles, the Commission directed that the Crescent City Railway establish a rate of \$1.25 per ton for the transportation of cement, in carloads, from Crestmore to Los Angeles, and it is here recommended that a corresponding reduction be made in the rate from Oro Grande to Los Angeles and the present relative adjustment of rates on cement from Oro Grande, Colton and Crestmore be maintained. It is also recommended that the defendant establish from Oro Grande to San Diego a proportional or transshipment rate to apply on shipments moving to that port by rail and thence by ocean carriers to destinations beyond, 25 cents per ton higher than similar rates from Colton and Crestmore to San Diego.

I submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and a full investigation of the matters and things involved having been had and being fully apprised in the premises,

It is hereby ordered that the complaint be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of March, 1915.

DECISION No. 2248.

IN THE MATTER OF THE APPLICATION OF THE CITY OF WATTS, LOS ANGELES COUNTY, CALIFORNIA, FOR PERMISSION TO CONSTRUCT PACIFIC DRIVE, A PUBLIC STREET, AT GRADE ACROSS THE PRIVATE RIGHT OF WAY AND FOUR TRACKS OF PACIFIC ELECTRIC RAILWAY COMPANY IN SAID CITY OF WATTS, LOS ANGELES COUNTY, CALIFORNIA.

Application No. 1106.

Decided March 22, 1915.

Applicant, city of Watts, applies for permission to construct what is known as Pacific drive across the four-track right of way of the Pacific Electric Railway Company at grade, and after investigation it appearing that the proposed crossing is not absolutely necessary to the convenience of residents adjacent thereto and that the small benefits to be derived therefrom are considerably offset by the extreme dangerousness of a crossing at this particular point, application denied without prejudice.

B. D. Neighbours, for City of Watts.

Frank Karr, for Pacific Electric Railway Company.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is an application by the city of Watts to construct Pacific drive, a public street, across the private right of way of the Pacific Electric Railway Company, and to construct a crossing at grade over the four tracks of said railway company at said location.

The city of Watts is a municipal corporation of the sixth class, with a 1910 census population of 1,922 people. It lies some seven and one half miles almost directly south of Los Angeles and practically all through traffic on its streets, whether by train or automobile, is in a north and south direction. The only important east and west street is Main street, at which all interurban electric cars stop. South of this street the open fields commence almost at once, while north of this street the country is laid out in 300 and 600-foot blocks, with no streets open across the Pacific Electric right of way for the equivalent of six 300-foot blocks. Pacific drive is the third of these streets and Ruoff is the sixth.

The Pacific Electric Railway enters Watts from Los Angeles on a four-track right of way. Directly south of Main street, in Watts, this four-track line forks into three two-track units through the open fields. On the four-track right of way through Watts the local trains use the two outer tracks, while the through trains use the two inner tracks.

Main street is not only the terminus of a local Pacific Electric service to and from Los Angeles, but is also a stop for all the limited trains through Watts, namely, those of the Newport line, the Long Beach line, the Santa Ana line, the Redondo Beach line and two San

Pedro lines. Thus, Main street becomes naturally very important, and the crossing is adequately protected; and as all trains stop here, it may be fairly considered as safe as a grade crossing can be made. It would be natural for traffic to seek such a crossing, even at some inconvenience as to the distance in reaching it. All public buildings which serve the population on both sides of the Pacific Electric right of way are located on this street, with the exception of the new Carnegie Library between Pacific drive and Oak street. The fact that Main street is not tapped on the north by any street on the west side of the Pacific Electric right of way tends to make it difficult to approach the library from the territory southwest of Main street station. From the territory southeast of Main street station pedestrians are inclined to cross the Pacific Electric tracks at several places where there are no crossings; and the testimony showed that the fence along the right of way had been torn down at Pacific drive, to make it possible for foot passengers to cross there.

The crossing at Ruoff street, 1,900 feet to the north of Main street, appears to adequately serve this northern district of the city of Watts. Because of the small amount of travel here at the present time, this crossing is not protected. If Ruoff street should ever in the future become an important crossing, adequate protection will have to be furnished.

Under present conditions a crossing at Pacific drive would be of practically the same degree of hazard as the one at Ruoff street now is. Whatever traffic the proposed crossing might divert from the crossing at Ruoff street would probably not increase the total hazard appreciably under present operating conditions, where the trains in general run at full speed past non-stop crossings; but any traffic which a crossing at Pacific drive would divert from Main street would be diverted from an entirely safe crossing to one of very real danger. Pacific drive is not in any sense a through street. To the west it extends but two blocks and to the east but seven blocks from the Pacific Electric tracks. There was very little indication of traffic on it when the situation was investigated by the Commission's engineers; and there is an average of less than two houses per 300-foot block front in the eighteen blocks which might be considered as being tributary to the crossing here proposed. A crossing at Pacific drive would be used by pedestrians living east of the tracks, in going to and from the library; by pedestrians living west of the tracks, practically not at all; and by vehicles, only of the nature of delivery wagons. In my opinion, access from one side to the other of the Pacific Electric right of way, by means of grade crossings, is not now difficult in this territory, and entails only a minimum degree of inconvenience by reason of round-about travel.

Such inconvenience clearly is bound to exist where a community is divided by a four-track, high speed railroad, as is the case in the city of Watts. The duty of the Commission in applications such as the one under consideration is clear. It is necessary to weigh against each other the factor of necessity and convenience to the community and the people to be served by the crossing and the other factor of added hazard and danger to the same community and the same people and also to the public utility in question. In this instance there is no doubt in my mind that this additional grade crossing on Pacific drive would be a far greater source of danger than of convenience, and I am equally convinced that the necessity for this grade crossing is not serious at this time. Investigation shows that approximately 380 regular trains, not counting extras, pass the point of the proposed crossing every day in the twenty-one hours between 4 a. m. and 1 a. m. It is practically impossible to make such a crossing safe by the installation of an automatic flagman, as such flagman would be wigwagging and ringing practically continually; and there can be no question that the opening of Pacific drive would simply mean the addition of a death trap to the city of Watts. If traffic conditions should materially change in the future and the opening of Pacific drive across the Pacific Electric right of way become a matter of real importance to the city of Watts, consideration will then have to be given by the Commission to a grade separation or a grade crossing at this point.

I shall therefore report to the Commission that under the conditions now existing this application should not be granted, and I recommend the following form of order:

ORDER.

City of Watts, Los Angeles County, California, a municipal corporation, having filed its application with the Commission for permission to construct Pacific drive, a public street, at grade across the private right of way and four tracks of the Pacific Electric Railway Company, in said city of Watts; and a public hearing having been held, at which all interested parties were represented, and it appearing to the Commission that it would be against public policy and not in the best interest of the city of Watts to grant this application,

It is hereby ordered that this application be, and the same is hereby, denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of March, 1915.

DECISION No. 2249.

IN THE MATTER OF THE APPLICATION OF CITY OF OAKLAND FOR PERMISSION TO CONSTRUCT NINETEENTH AVENUE AT GRADE ACROSS THE TRACKS OF WESTERN PACIFIC RAILWAY COMPANY BETWEEN EAST TWELFTH STREET AND THE UNITED STATES BULKHEAD LINE, IN THE CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA.

Application No. 1465.

IN THE MATTER OF THE APPLICATION OF CITY OF OAKLAND FOR PERMISSION TO CONSTRUCT NINETEENTH AVENUE AT GRADE ACROSS THE TRACKS OF CENTRAL PACIFIC RAILWAY COMPANY AND ITS LESSEE, SOUTHERN PACIFIC COMPANY, BETWEEN EAST TWELFTH STREET AND THE UNITED STATES BULKHEAD LINE, IN THE CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA.

Application No. 1466.

Decided March 22, 1915.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

SUPPLEMENTAL ORDER.

The order issued to cover these two applications, after the hearing was held, specified a division of expense of the cost of an automatic crossing watchman to protect Nineteenth avenue, as follows:

“(5) The expense of providing and installing said crossing watchman shall be borne, one third ($\frac{1}{3}$) by the applicant, one third ($\frac{1}{3}$) by Western Pacific Railway Company and one third ($\frac{1}{3}$) by Southern Pacific Company.

“(6) The cost of maintaining this watchman hereafter shall be borne jointly by Western Pacific Railway Company and Southern Pacific Company.”

Southern Pacific Company and Western Pacific Company have now represented to the Commission that a division of this two thirds ($\frac{2}{3}$) of the cost of the installation to be borne by them, could be divided as between the companies in a manner which would be more satisfactory to them; and the two companies having agreed, in writing, as to what this division of expense shall be as between themselves, and this being a matter which is immaterial to the Commission,

It is hereby ordered that conditions (4) and (5), of Decision No. 2125, regarding Applications 1465 and 1466, are hereby void, and that this division of expense be as follows:

(1) The cost of controlling circuits or apparatus on Western Pacific Company's tracks shall be borne one third ($\frac{1}{3}$) by the city of Oakland and two thirds ($\frac{2}{3}$) by Western Pacific Railroad Company.

(2) The cost of controlling circuits or apparatus on the Southern Pacific Company's tracks shall be borne one third ($\frac{1}{3}$) by the city of Oakland and two thirds ($\frac{2}{3}$) by Southern Pacific Company.

(3) The cost of installing the automatic flagman itself shall be divided equally between Southern Pacific Company, Western Pacific Company and city of Oakland.

(4) Western Pacific Company shall maintain at its own expense the controlling circuits or apparatus on its tracks; Southern Pacific Company shall maintain at its own expense corresponding facilities on its tracks and Southern Pacific Company shall maintain the automatic flagman itself at the joint and equal expense of both companies.

(5) All other provisions and conditions of the original order shall remain in full force and effect.

Dated at San Francisco, California, this 22d day of March, 1915.

DECISION No. 2250.

IN THE MATTER OF THE APPLICATION OF UNION HOME TELEPHONE AND TELEGRAPH CORPORATION FOR AN ORDER AUTHORIZING SAID CORPORATION TO SELL ITS TREASURY BONDS, OR TO USE SAID TREASURY BONDS AS COLLATERAL TO BORROW MONEY TO CARRY OUT THE ORDINANCES OF THE CITIES OF SAN BERNARDINO AND LONG BEACH WITH REGARD TO CERTAIN CONSTRUCTION BY SAID CORPORATION IN SAID CITIES; AND FOR AN ORDER AUTHORIZING SAID CORPORATION TO INCREASE ITS RATES.

Application No. 1510.

Decided March 22, 1915.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

ORDER OF DISMISSAL.

The applicant herein, at the public hearing held on this matter in Los Angeles, on March 16, 1915, having requested that the application in the above entitled matter be dismissed,

It is hereby ordered that the same be and it is hereby dismissed.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of March, 1915.

DECISION No. 2251.

IN THE MATTER OF THE APPLICATION OF LONG BEACH CONSOLIDATED GAS COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE, SELL AND DELIVER ONE HUNDRED OF ITS FIRST MORTGAGE BONDS OF THE DENOMINATION OF ONE THOUSAND DOLLARS EACH.

Application No. 1526.

Decided March 22, 1915.

Applicant, operating a gas manufacturing and distributing system in the city of Long Beach, desiring to issue bonds for proper capital purposes, applies for and is granted permission to issue \$100,000.00 face value of its 6 per cent bonds to be sold at not less than 95, of the proceeds, \$10,000.00 to be used to retire a certain note, \$33,163.98 to reimburse treasury for capital expenditures heretofore made, the balance for additions and extensions to system only after such proposed additions have been filed and approved by the Commission.

Harry J. Bauer, for Applicant.

George F. Kapp, city attorney, and *Louis N. Whealton*, mayor of Long Beach, for City of Long Beach.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Long Beach Consolidated Gas Company for authority to issue \$100,000.00 of its first mortgage 6 per cent bonds and to use the proceeds as follows:

- | | |
|--|-------------|
| (a) To retire note of \$10,000 held by National Bank of Long Beach.. | \$10,000 00 |
| (b) To reimburse applicant for expenditures upon capital account from income, and thereafter to enable the applicant to pay outstanding accounts | 33,163 98 |
| (c) For additions and betterments, consisting chiefly of service extensions | 56,836 02 |

The city of Long Beach intervened and was represented by its mayor, Mr. Louis N. Whealton. The city's intervention asked for an investigation by this Commission into the affairs of the applicant and to reserve to the city the right to question the statement made in the application in so far as they might have bearing now or in the future upon the rates charged or to be charged for the sale and distribution of gas in the city of Long Beach.

In the application Long Beach Consolidated Gas Company states that it proposes to spend in all, during the year 1915, approximately \$100,000.00 for betterments, of which \$20,000.00 will be used for extensions of and additions to its gas plant, and approximately \$80,000.00 for extensions of and additions to its gas distributing system. The applicant states that it will submit at a later time the details of the construction for additions and betterments, and the order at this time, therefore, in so far as it may provide for bonds for future additions

and betterments, will be conditioned upon the presentation of these details.

The applicant reports an outstanding issue of common stock of the par value of \$675,700.00, and \$191,000.00 par value of preferred stock. Applicant submitted the testimony of two engineers, one stating that the value of the physical properties amounted to \$761,723.75 as of December 31, 1914, and the other estimating the value at \$756,305.00 as of January 30, 1915.

For the calendar year 1914 the applicant submitted a statement of earnings as follows:

| | |
|---|--------------|
| Gross operating revenue----- | \$220,687 73 |
| Operating expenses ----- | 147,071 33 |
| Net operating revenue----- | \$73,616 40 |
| Uncollectible bills and loss on non-operative property----- | 568 98 |
| | <hr/> |
| | \$73,047 42 |
| Interest on funded debt----- | \$26,816 67 |
| Other interest ----- | 4,915 49 |
| Amortization of debt discount----- | 265 56 |
| | <hr/> |
| | 31,997 72 |
| Balance ----- | <hr/> |
| | \$41,049 70 |
| Depreciation ----- | 27,500 00 |
| | <hr/> |
| Surplus ----- | \$13,549 70 |
| Dividends ----- | 8,280 00 |
| | <hr/> |
| Balance ----- | \$5,269 70 |

The applicant is purchasing a mixed gas of half natural gas and half artificial gas from the Southern California Gas Company. This comprises about 75 per cent of the gas which it distributes. It manufactures the balance in its plant at Long Beach.

The applicant reports outstanding at this time bonds amounting to \$481,000.00. It appears that the purposes for which the applicant herein proposes to issue these bonds are for proper capital purposes, the money having been used or to be used for additions to its plant.

Of the \$100,000.00, the sum of approximately \$56,000.00 will be used for extensions to give service to prospective patrons. The applicant testified that it had applications for service which would entail at this time an outlay of approximately \$26,000.00. It is desirable, of course, that people in Long Beach needing gas service should be promptly supplied with this convenience. It is proper also that the applicant should issue securities to cover the reasonable cost of these extensions.

The deed of trust under the terms of which applicant issues its bonds provides that bonds may be issued up to 80 per cent of the cost of additions and betterments, provided that the net earnings of the company for the period of twelve months preceeding the application to

have the bonds certified shall have been equal to twice the interest on the bonds outstanding and the bonds to be issued.

Such matters as relate to the rates of the applicant will be given due consideration at such time as the rates may be before this Commission for review.

Accordingly I recommend that this application be granted and submit the following form of order:

ORDER.

Long Beach Consolidated Gas Company having applied to this Commission for authority to issue \$100,000.00 of its first mortgage 6 per cent bonds, and a hearing having been held and it appearing that the purposes for which the applicant proposes to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Long Beach Consolidated Gas Company be granted authority and it is hereby granted authority to issue \$100,000.00 of its first mortgage 6 per cent bonds under its mortgage and deed of trust to Los Angeles Trust and Savings Bank, dated November 1, 1910, heretofore filed with this Commission.

The authority herein granted to issue said bonds is granted upon the following conditions and not otherwise:

(1) The bonds herein authorized to be sold shall be sold so as to net the applicant not less than 95 per cent of the face value thereof plus accrued interest.

(2) The proceeds derived from the sale of said bonds shall be used for the following purposes:

| | |
|---|--------------|
| (a) To retire note held by National Bank of Long Beach, in the sum of | \$10,000 00 |
| (b) To reimburse the applicant for expenditures from income upon capital account, and thereafter for the payment of accounts payable in the sum of..... | 33,163 98 |
| (c) For extensions of and additions to applicant's gas plant and distributing system | 56,836 02 |
| Total | \$100,000 00 |

(3) The bonds herein authorized to be issued under subdivision (c) of section 2 herein shall be issued only after the applicant shall have submitted to this Commission a detailed statement of the extensions and additions proposed to be made to its gas plant and distributing system, and shall have received a supplemental order from this Commission approving the use of the proceeds from the sale of its bonds for such purposes.

(4) The bonds herein authorized to be issued shall be issued and sold only after the applicant shall have complied with the terms of its trust deed herein referred to, and particularly to those sections which

specify that bonds shall be issued only up to 80 per cent of the costs of additions and betterments, and that such bonds shall be issued only after the applicant, for a period of twelve months, shall have earned twice the interest on its outstanding bonds and the bonds proposed to be issued.

(5) Long Beach Consolidated Gas Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(6) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

(7) The authority herein granted shall apply to such bonds as shall have been issued on or before March 15, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of March, 1915.

DECISION No. 2252.

IN THE MATTER OF THE APPLICATION OF MARIN WATER AND POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF SEVENTY-SEVEN THOUSAND DOLLARS.

Application No. 1567.

Decided March 22, 1915.

Applicant, Marin Water and Power Company, having notes outstanding of the aggregate face value of \$40,500.00 which it desires to refund, and also desiring to reimburse its treasury for capital expenditures heretofore made, applies for permission to issue bonds of the face value of \$77,000.00, to be sold at not less than 95 for such purposes, or for permission to pledge such bonds, if 95 can not be realized thereon, as security for indebtedness incurred for the purposes of refunding the notes herein mentioned. Application granted, provided that if bonds are pledged they shall be pledged at not less than 10 to 7 and only in a sufficient amount to secure the note indebtedness, the balance to remain in applicant's treasury subject to supplemental order of the Commission.

Joseph Haber, Jr., for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for an order authorizing the sale of bonds of the face value of \$77,000.00 or for the pledge of bonds to secure the payment of certain promissory notes, as will appear in greater detail hereafter.

Marin Water and Power Company was incorporated under the laws of California on March 9, 1906. The company sells water for domestic, municipal and irrigation purposes to a considerable portion of southern Marin County, including the incorporated towns of San Rafael, San Anselmo, Ross and Larkspur and contiguous unincorporated territory. The company also sells water to the town of Sausalito for distribution through the town's municipally owned and operated water system.

Applicant has an authorized capital stock of the par value of \$2,000,000.00, of which amount 14,000 shares of the par value of \$100.00 each are common stock and 6,000 shares of the par value of \$100.00 each are preferred stock. Of the stock so authorized, 6,000 shares of preferred stock and 5,005 shares of common stock have been issued. Five thousand shares of common stock were issued to A. W. Foster, Sr., without present payment but under an agreement under which he may be called upon to make payments when needed by the company. Dividends at the rate of 3 per cent per annum have been paid for many years on the preferred stock.

Applicant has authorized an issue of \$2,000,000.00 first mortgage 5 per cent sinking fund forty-year gold bonds, secured by mortgage to Mercantile Trust Company of San Francisco, trustee. Of the bonds so authorized, bonds of the face value of \$600,000.00 have been issued. Applicant has outstanding notes payable totalling \$65,500.00, as will appear in greater detail hereafter.

In Application No. 1141, being the application of Marin Municipal Water District for the ascertainment of the value of the property of Marin Water and Power Company, exhaustive evidence concerning the value of this company's property was presented. While the decision in this case has not as yet been rendered, it will not be disputed that there is a considerable margin of value in the property in excess of the bonds already issued, together with those which it is now proposed to issue.

Applicant's annual report for the year ending December 31, 1914, states the company's operations for the year as follows:

TABLE I.
Income Account, 1914.

| | | |
|--|-----------|--------------|
| Operating revenue | | \$135,793 96 |
| Operating expenses | | 74,019 22 |
| <hr/> | | |
| Net operating revenue—water | | \$61,774 74 |
| Rents from land | \$360 00 | |
| Miscellaneous non-operating revenues | 95 00 | |
| <hr/> | | |
| Total non-operating revenues | | 455 00 |
| <hr/> | | |
| Gross corporate income | | \$62,229 74 |
| Uncollectible bills | \$305 35 | |
| Interest on funded debt | 30,000 00 | |
| Other interest deductions | 2,456 17 | |
| Other contractual reductions from income | 15 60 | |
| <hr/> | | |
| Total deductions | | 32,777 12 |
| <hr/> | | |
| Balance to surplus account | | \$29,452 62 |

While some of the sums charged to operating expenses should more properly be charged to capital account or to depreciation, it is unnecessary to pursue this subject further in this proceeding.

Applicant sets forth that it has outstanding certain promissory notes, as follows:

- (1) Note dated March 18, 1913, payable one day after date to the order of the Anglo and London Paris National Bank, interest 6 per cent, amount
- (2) Note dated February 1, 1912, payable on demand after date, to the order of Bank of Willits, interest 6 per cent, amount
- (3) Note dated February 1, 1912, payable on demand after date, to the order of Bank of Willits, interest 6 per cent, amount
- (4) Note dated May 1, 1914, payable on September 1, 1914, to the order of Portuguese American Bank of San Francisco, interest 6 per cent, amount
- (5) Note dated October 2, 1911, payable on demand after date, to the order of Marin County Water Company, interest 6 per cent, amount
- (6) Note dated February 2, 1915, payable on June 2, 1915, to the order of Carl Raiss & Co., interest 5 per cent, amount

Total

Applicant now asks authority to issue its 5 per cent first mortgage gold bonds at 95 per cent of their face value in an amount sufficient to pay the first five of the notes above listed, having a total face value of \$40,500.00 and to issue the remainder of the \$77,000.00 face value of bonds applied for, for the purpose of reimbursing its treasury for expenditures made therefrom for capital account during the last five years. In case applicant can not sell its bonds at 95 per cent of their

face value, it asks authority to issue bonds as collateral security for the repayment of moneys to be borrowed to pay the five notes first hereinabove listed, at a ratio of not to exceed \$100.00 face value of bonds for each \$70.00 of money borrowed. I am satisfied from the evidence that the proceeds of said \$40,500.00 of promissory notes were spent for purposes properly chargeable to capital account and also that moneys amounting to \$32,253.89 were taken by applicant from its treasury during the last five years and spent in new construction and extensions properly chargeable to capital account. If applicant can not sell its bonds at 95 per cent of their face value, it will pledge only enough bonds to secure the payment of moneys necessary to pay the five notes totalling \$40,500.00. If applicant issues any notes payable on demand or at a time more than twelve months after date, this Commission's authority must first be secured, as provided by section 52 of the Public Utilities Act. No order is asked with reference to the promissory note for \$25,000.00, the proceeds whereof were used to pay the expenses of the proceeding brought by Marin Municipal Water District to have this Commission ascertain and establish the value of the company's property for the purpose of condemnation.

I recommend that the application be granted as specified in the order and submit herewith the following form of order:

ORDER.

Marin Water and Power Company, having applied to the Railroad Commission of the State of California for an order authorizing the issue by said company of bonds of the face value of \$77,000.00, said bonds to be payable on July 1, 1948, and to bear interest at 5 per cent per annum, payable semiannually, and secured by a first mortgage upon all the property of the company, or to issue sufficient of said bonds to secure the payment of certain promissory notes as hereinafter set forth, and a public hearing having been held and the Railroad Commission finding that the purposes for which said bonds are herein authorized to be issued are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered that the Railroad Commission of the State of California hereby authorizes the issue by Marin Water and Power Company of \$77,000.00, face value, of principal of bonds of said company, maturing on July 1, 1948, and bearing interest at the rate of 5 per cent per annum, payable semiannually, under and in pursuance of the terms of the mortgage heretofore and on the first day of July, 1908, made and executed by Marin Water and Power Company to Mercantile Trust Company of San Francisco, trustee, or, as an alternative, so many of said bonds as shall be necessary to secure the payment

of moneys to pay those certain promissory notes now outstanding and hereinafter specified, upon the conditions following and not otherwise, to wit:

1. Marin Water and Power Company may issue said bonds of the face value of \$77,000.00 so as to net said company not less than 95 per cent of their face value plus accrued interest and may use the proceeds from the sale of said bonds only for the following purposes:

(a) To refund the following promissory notes now outstanding in amounts not to exceed in any case the amounts set opposite each note:

| | |
|---|-------------|
| (1) Note dated March 18, 1913, payable one day after date, to the order of the Anglo and London Paris National Bank, interest 6 per cent, amount..... | \$18,500 00 |
| (2) Note dated February 1, 1912, payable on demand after date, to the order of Bank of Willits, interest 6 per cent, amount..... | 2,000 00 |
| (3) Note dated February 1, 1912, payable on demand after date, to the order of Bank of Willits, interest 6 per cent, amount..... | 5,000 00 |
| (4) Note dated May 1, 1914, payable on September 1, 1914, to the order of Portuguese American Bank of San Francisco, interest 6 per cent, amount..... | 7,500 00 |
| (5) Note dated October 2, 1911, payable on demand after date, to the order of Marin County Water Company, interest 6 per cent, amount | 7,500 00 |
| Total | \$47,500 00 |

(b) To reimburse applicant's treasury for moneys expended therefrom during the last five years for new construction and extensions properly chargeable to capital account, not to exceed \$32,253.89.

2. In case Marin Water and Power Company can not sell said bonds so as to net said company 95 per cent of their face value plus accrued interest, said company may pledge sufficient of said bonds at the ratio of not over \$100.00 in bonds to \$70.00 of indebtedness secured, for the purpose of paying the five promissory notes specified in subdivision 1 of this order, but said company in such event may not issue any bonds not necessary for said purpose, without the further order of the Railroad Commission.

3. Marin Water and Power Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale or pledge of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Railroad Commission, stating the sale or pledge of said bonds during the previous month, the terms and conditions of such sale or pledge, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which, in so far as applicable, is made a part of this order.

4. The authority hereby granted shall not become effective until Marin Water and Power Company has paid the fee specified in section 57, as amended, of the Public Utilities Act.

5. The authority hereby granted shall apply only to such bonds as may have been issued on or before January 1, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of March, 1915.

Decision No. 2253, grade crossing; not printed. See end of volume.

DECISION No. 2254.

IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN HOME TELEPHONE COMPANY FOR AUTHORITY TO ISSUE NOTES TO REFUND CERTAIN NOTES NOW OUTSTANDING.

Application No. 1588.

Decided March 22, 1915.

Applicant authorized to renew two promissory notes of the aggregate face value of \$11,000.00 for a period of not to exceed two years, such notes to bear interest at not to exceed 8 per cent and to be secured by \$22,000.00 face value of applicant's bonds.

Charles A. Wolfe, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application by Southwestern Home Telephone Company for authority to issue two promissory notes, one to Mary A. Prendergast to refund a note of \$8,000.00 now held by her, and to issue a new note in the sum of \$3,000.00 to take up a note for \$3,000.00 now held by Mr. C. B. Hoadley.

Applicant desires also to issue as collateral security for these notes, bonds of the Southwestern Home Telephone Company in the total amount of \$22,000.00, at the ratio of \$2.00 face value of bonds to \$1.00 face value of notes.

The affairs of this corporation have been reviewed in connection with this Commission's decision on Application No. 871, to which reference is hereby made. The authorization herein requested will merely keep this applicant in its present status pending the complete review of its financial condition. Bonds in the sum of \$22,000.00 are now pledged for the notes which it is proposed to refund, and they will be left outstanding as they now are if this order is granted.

Accordingly, I recommend the application be granted and submit the following form of order:

ORDER.

Southwestern Home Telephone Company having applied to this Commission for authority to issue a note in the sum of \$8,000.00 to Mary A. Prendergast and to issue a note of \$3,000.00 to an unspecified payee and to pledge as security for said notes, bonds of the Southwestern Home Telephone Company at the ratio of \$2.00 face value of bonds for \$1.00 face value of notes;

And a hearing having been held and it appearing that the purposes for which the notes, now proposed to be refunded, were issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Southwestern Home Telephone Company be granted authority, and it is hereby granted authority, to issue a promissory note in the sum of \$8,000.00 to Mary A. Prendergast, payable not to exceed two years after date, at a rate of not to exceed 8 per cent per annum, said note to be used to refund a note in like amount now held by Mary A. Prendergast.

It is further ordered that Southwestern Home Telephone Company be granted authority, and it is hereby granted authority, to issue a promissory note in the sum of \$3,000.00, payable not to exceed two years from date, with interest not to exceed 8 per cent per annum, said note to be used to refund a note of like amount in favor of C. B. Hoadley.

It is further ordered that Southwestern Home Telephone Company be granted authority, and it is hereby granted authority, to issue \$22,000.00 of Southwestern Home Telephone Company bonds as collateral security for the notes herein authorized to be issued, at a ratio of \$2.00 face value of bonds for \$1.00 face value of notes; the bonds herein authorized to be so pledged being the bonds which are now pledged as collateral security for the notes which the applicant herein proposes to refund.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The notes herein authorized to be issued shall net the applicant the face value thereof.

(2) Within thirty days after the notes herein authorized to be issued shall have been issued, the applicant shall make a report to this Commission of such issue, stating that the notes to be refunded have been canceled.

(3) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

(4) The authority herein granted shall apply to such notes as shall have been issued on or before December 31, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of March, 1915.

DECISION No. 2255.

IN THE MATTER OF THE APPLICATION OF SAN LORENZO WATER COMPANY TO SELL ITS WATER SYSTEM AT HAYWARD TO HAYWARD WATER COMPANY, AND OF HAYWARD WATER COMPANY TO BUY SAID SYSTEM AND TO ISSUE STOCK IN PAYMENT THEREFOR IN THE AMOUNT FIXED BY THE COMMISSION AS THE VALUATION OF THE PROPERTY.

Application No. 1175.

Decided March 22, 1915.

Application of the Hayward Water Company, as amended, applies for permission to issue 2,187 shares of stock of the par value of \$100.00 per share, 2,104 shares of which are to be issued to the Investors and Promoters, a corporation owning the San Lorenzo water system, in payment for such system; eighty shares to be sold to defray incorporation expenses and for working capital; the remaining three shares to incorporators, and also to take over the property of the San Lorenzo Water Company, lessee of the water property of the Investors and Promoters, assuming such company's present debts, amounting to \$2,000.00, in compensation therefor. The San Lorenzo Water Company also applies for permission to transfer its system as outlined above.

Held, After review of the value of the property to be transferred, with particular consideration of going concern value and water right values, that the amount of stock as applied for to be issued in exchange therefor is in excess of a fair amount for such purpose. Hayward Water Company authorized to issue 1,280 shares of its capital stock for purposes as applied for and to assume the present indebtedness of the San Lorenzo Water Company, which latter named company, together with Investors and Promoters, are authorized to transfer their public utility properties to the Hayward Water Company.

Oscar Sutro, for Applicants.

Frank Mitchell, Jr., for the Town of Hayward.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

The original application in the above entitled matter was filed with the Commission on June 11, 1914. The application requested authority for the issuance of 1,487 shares of capital stock at \$100.00 par value, of the Hayward Water Company, and for the sale by the San Lorenzo Water Company of its public utility property to the Hayward Water Company, and for purchase by the latter concern of the property of the San Lorenzo Water Company and the property of the Investors and Promoters, a corporation.

It was set forth that the proceeds would be used as follows: 1,404 shares of the capital stock of the Hayward Water Company to be delivered to the Investors and Promoters, three shares to be issued to the incorporators of the Hayward Water Company, and eighty shares to be sold and the proceeds used to defray the expense of organization, legal advice, etc., and the establishment of a working capital of \$3,000.00. An amended petition filed February 10, 1915, increased the proposed stock issue to 2,187 shares, 2,104 shares to go to Investors and Promoters.

The payment for the property of the San Lorenzo Water Company, it is stated, is to consist of the assumption by the Hayward Water Company of the indebtedness of that concern, amounting, possibly, to \$2,000.00.

The San Lorenzo Water Company, on December 29, 1909, leased the water utility property of the Investors and Promoters, consisting of certain pumping stations, wells and transmission and distribution pipe lines, with the necessary appurtenances, then and since used in providing water supply for the town of Hayward and adjacent territory. The rental was fixed at \$3,150.00 per annum, payable semi-annually and the lease was for a term of five years.

Previous to the public hearing of this matter by the Commission, on September 18, 1914, an inspection of the plant was made by the Commission's hydraulic engineers, and the books of the San Lorenzo Water Company and of the Investors and Promoters were examined by the Commission's auditor. The examination of the books disclosed that the actual investment by the owners of the plant—the Investors and Promoters—has been \$111,856.00, made up as follows:

| | |
|---|--------------|
| Paid up capital stock----- | \$5,000 00 |
| Assessments ----- | 79,970 00 |
| Earnings left in business, July, 1892, to December, 1913----- | 26,886 00 |
| Total ----- | \$111,856 00 |

The investment was found to have been—

| | |
|---|--------------|
| In plant ----- | \$83,200 00 |
| Real estate ----- | 14,635 00 |
| Assets not included in intended sale----- | 14,012 00 |
| Total ----- | \$111,856 00 |

It is stated in the report of the auditor that no provision has been made for depreciation; that \$7,174.00, the amount at which the book value of the old plant was placed, has been eliminated; and that no interest or dividend has been paid to the owners at any time during the period July 1, 1892, to December 31, 1913. The combined property of the Investors and Promoters and the San Lorenzo Water Company is shown in Exhibit "D" accompanying the application, to which reference is hereby made, to have a value of \$141,600.00.

At the hearing held on September 18, 1914, it developed that the company desired the valuation now determined by the Commission to be fixed by stipulation of all parties and approved by the Commission as the value to be used in an application for adjustment of rates which the company proposed to file later. Mr. R. W. Hawley, hydraulic engineer of the Commission, objected to the use of the valuation then prepared by his department for that purpose, claiming that the valuation for rate-making purposes should receive more careful consideration than one used merely as a measure of the propriety of the issuance of a block of stock.

An adjourned hearing was held on December 16, 1914, at which time valuations of the property were submitted in testimony by G. L. Dillman for the applicant, R. H. Goodwin for the town of Hayward, and R. W. Hawley for the Commission. Comparison of the general features of those values are shown in the following tabulation:

| | Reproduction cost | | | Present value | | |
|---------------------|-------------------|------------------|------------------|------------------|-----------------|-----------------|
| | Dillman | Goodwin | Hawley | Dillman | Goodwin | Hawley |
| Physical structures | \$114,117 | \$91,250 | \$106,969 | \$86,400 | \$49,036 | \$66,112 |
| Paving over mains | 12,344 | 12,111 | | 10,799 | 6,731 | |
| Real estate | 39,715 | 10,500 | 12,260 | 39,715 | 10,500 | 12,260 |
| Water rights | 55,000 | | | 55,000 | | |
| Going concern value | 20,000 | | | 20,000 | | |
| Totals | \$241,176 | \$113,861 | \$119,229 | \$211,914 | \$66,267 | \$78,372 |

In the reports of Mr. Dillman and Mr. Goodwin, presented as exhibits, an overhead of 10 per cent was added uniformly on all property excepting by Mr. Goodwin on real estate, and this has been distributed in the above tabulation to compare directly with the report of Mr. Hawley, who carried overhead directly into each feature.

Depreciation of physical structures was computed by Mr. Hawley and Mr. Goodwin, after examination of the property and comparison with the known life of similar structures, using the probable life and known age. Mr. Dillman admitted that his measure of depreciation was based purely upon his personal judgment and he minimized the value of analysis in detail. Mr. Dillman's reproduction cost estimate was also based upon a visual examination, he believing "that the point of needless refinement is very largely exceeded in many of these estimates."

The greatest discrepancy in the valuation of physical properties is in the distribution system where Mr. Dillman's unit costs of pipe differ greatly from that used by either of the other two engineers, and in the pumping plant. Here, admittedly, the engineer for the applicant has not made examination and computation in detail, and

the testimony of the engineers for the town of Hayward and for the Commission must, perforce, be given greater weight. The estimated cost of breaking through and replacing pavement over mains is given by Mr. Dillman at a total price, including overhead, of \$12,344.00. Mr. Goodwin assesses this item at \$11,011.00 and depreciates the same to \$6,119.00. The Commission's engineer testified that, in his belief, the pavement over mains should not be considered an addition to value, even though by strict application of the principle of reproduction cost it would be proper. He claimed that it should be considered an item of valuation only when the company had actually been required to meet the expense of cutting through and replacing pavement, but that in a rate-making action a sufficient depreciation fund should be provided to meet this item of expense when necessary to replace the pipe line or service at the time of replacement under pavement. Going concern value was included, by Mr. Dillman only, at \$20,000.00, and he also included water rights at \$55,000.00. At the time of the preliminary hearing it was stated by Mr. Dillman that he had omitted both going concern value and water rights, with approval of counsel for complainants, they believing that the full cost value of the property should be allowed as a basis for securities and for rate-making purposes and that depreciation otherwise allowable would counterbalance the value of these two items. In his valuation, the accrued depreciation is stated to be \$29,262.00. There is a very apparent discrepancy between this amount and the \$75,000.00 now claimed by Mr. Dillman for water rights and going value. Mr. Dillman, in justification of his proposed valuation of water rights, cited his own valuation of a plant which he claimed to be similar, at Livermore. He stated that the capacity of the Hayward plant is computed at one million gallons per day, that the plant at Livermore has an equal capacity and that the water right value of the Livermore plant is placed by him at \$100,000.00. He did not satisfactorily explain his apparent discrimination against the Hayward plant. A further reason for the value given is stated to be the decision of Judge Farrington in making valuation of the water rights of the Spring Valley Water Company. However, there is dissimilarity in that the Spring Valley water supply is largely obtained from gravity sources, while this water is all pumped, and similarity otherwise was not established. This case is not comparable to a case involving properties entirely dissimilar and covering localities geographically and topographically removed from that under direct consideration.

In deciding upon the amount of water supply upon which a valuation should be placed, Mr. Dillman states that the actual use of July, 1913, was 680,000 gallons per day. In placing the valuation he uses 1,000,000 gallons. I find no evidence in this case to prove that

the plant has such a capacity and I find in the testimony of Frank J. Hurley, assistant secretary of the San Lorenzo Water Company, the statement that the average daily consumption is about 400,000 gallons.

The claim was made by the witness that this water system had, by prescription, gained the right to pump water prior to that of every other pumping plant on the Niles cone, and it was further claimed that this right assures to the system the privilege of increasing the amount pumped, without limit. The Niles cone, according to testimony, covers several thousand acres, from which many other pumping plants are drawing water, including Peoples Water Company (stated to be drawing six or eight million gallons daily), the Union Water Company, at Newark, and a small plant at Centerville. It is undoubtedly proved that the plant at Hayward pumped some certain amount of water prior to the operation of the other plants, but the prescriptive right, if any, so established, is only to the extent of the amount pumped prior to the development and use of water by other plants, should they become adverse claimants when the limit of the total supply available is approached. There is no doubt that this limit can be reached and it may be, as Mr. Dillman states, closely approaching the danger point at this time. We can not agree with the witness, however, that the Hayward Water Company is better protected in its right to an increasing use than are the other concerns now obtaining water from the common supply. It was testified that the Hayward Water Company did not use more than 400,000 gallons at the time the Contra Costa Water Company installed its wells at Alvarado.

Clearly, not sufficient testimony was submitted by the applicant to justify the Commission in granting applicant's request that a value of \$55,000.00 be added to the system for water value.

Valuation was placed on the thirty acres at Mount Eden by Mr. Dillman at \$1,000.00 an acre. Admittedly, except as water bearing land, with a proved pumping capacity, this land would not have a value of over \$300.00 an acre. To give additional value for water right, without sufficient testimony to support the claim, would, to that extent, be duplication.

I find the following to be the present value of this water system:

| | |
|--|--------------|
| Physical structures— | |
| Pipe lines | \$39,373 00 |
| Pumping plant | 12,184 00 |
| Service connections, meters and hydrants.... | 7,320 00 |
| Reservoir | 3,737 00 |
| Tools and stock | 741 00 |
| Buildings | 2,757 00 |
| | <hr/> |
| | \$66,112 00 |
| Mt. Eden pumping site..... | 30,000 00 |
| Other real estate..... | 3,260 00 |
| Estimate of paving now placed..... | 2,000 00 |
| | <hr/> |
| Total | \$101,372 00 |

While in this case there has been no substantial support for the claim of Engineer Dillman that \$20,000.00 should be allowed for going concern value, there was testimony to support the contention that this utility in the past had not earned such a rate of interest as would have been allowed under regulation by a public utilities commission. The auditor's examination of the books for the period 1905-1913, inclusive, developed a profit of \$29,167.00, or about \$3,240.00 per annum. During the same period it appears that there was an average investment of some \$90,000.00, which, at 6 per cent, would require \$5,400.00 per annum. The books were not in sufficient detail to make it possible for the Commission's accountants to determine definitely that the aggregate amount called profit should not properly be greater or less. The testimony of the company is that there was in 1913 a net return of \$3,350.00, and in 1912, and all preceding years, under \$3,000.00 per annum.

In deciding the proper rates to be received by this utility, some amount for cost of developing business as is proposed by Mr. Dillman for going concern should probably be allowed, but the fact that a company has lost money in the past does not appear to add to its present value. The theoretical determination of going concern value generally takes the form of the net loss in rates to the existing utility, were it required to begin now to build an exactly similar plant and await completion to begin business. Applying that reasoning in this case would result in an amount no greater than \$6,000.00. No one would consider actually reproducing the plant with expectation of no greater returns than have been received in the past.

I submit the following form of order:

ORDER.

Hayward Water Company having made application to the Railroad Commission to acquire the public utility properties of San Lorenzo Water Company and of the Investors and Promoters and to issue 2,187 shares of stock of Hayward Water Company in payment therefor, and for other purposes, and San Lorenzo Water Company having made application to sell its said property to Hayward Water Company in consideration of the assumption by Hayward Water Company of the indebtedness of San Lorenzo Water Company; and a public hearing having been held, and being fully apprised in the premises, the Commission finds as a fact that the public convenience and necessity will be served by the granting of the application in so far as the property transfers sought to be made are concerned.

The Commission further finds as a fact that the issuance of stock applied for can not be authorized in the amount desired, but that Hayward Water Company may issue not to exceed 1,280 shares of its capital stock to be used in obtaining these properties and to obtain cash to be

used in carrying out these transactions and to provide a working capital.

Basing its order on the foregoing findings of fact and the further findings of fact contained in the opinion which precedes this order,

It is hereby ordered that San Lorenzo Water Company be and it is hereby permitted to sell and the Hayward Water Company be and it is hereby permitted to purchase all the property of San Lorenzo Water Company.

It is further ordered that Hayward Water Company be and it is hereby permitted to buy the utility property of the Investors and Promoters, as set forth in the inventory attached to the application herein.

It is further ordered that, in consideration of the sale by San Lorenzo Water Company to Hayward Water Company, the latter company assume the indebtedness of San Lorenzo Water Company, as set forth in the application herein.

It is further ordered that Hayward Water Company be and it is hereby given authority to issue 1,280 shares of its capital stock, the same to be used for the purposes of acquiring the properties above described and for the further purpose of obtaining funds for carrying out the transactions herein authorized, and for obtaining a working capital.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of March, 1915.

DECISION No. 2256.

IN THE MATTER OF THE APPLICATION OF THE CITY OF REDONDO BEACH, CALIFORNIA, FOR AN ORDER FIXING THE VALUE OF CERTAIN PROPERTY OF THE REDONDO WATER COMPANY, A PUBLIC UTILITY CORPORATION.

Application No. 1398.

Decided March 24, 1915.

Frank L. Perry, for Applicant.

S. M. Haskins, for the Water Company.

REPORT OF THE COMMISSION.

SUPPLEMENTAL FINDINGS.

Whereas, the findings heretofore entered in the above proceeding on March 3, 1915, by a clerical error omitted a sum of \$9,225.00 for an item entered as real estate and water rights, said amount appearing

in the items listed but not being included in the total sum as shown in said opinion and in the findings thereto,

It is hereby ordered that said findings be and the same are hereby amended by adding \$9,225.00 to the sum of \$135,000.00, to read as follows:

“The Commission hereby finds as a fact that a fair compensation to be paid by the city of Redondo Beach for this property is the sum of \$144,225.00.”

In all other respects said findings shall remain in full force and effect.

Dated at San Francisco, California, this 24th day of March, 1915.

DECISION No. 2257.

IN THE MATTER OF THE APPLICATION OF NORTHWESTERN PACIFIC RAILROAD COMPANY AND CALIFORNIA WESTERN RAILROAD AND NAVIGATION COMPANY FOR ORDER AUTHORIZING THE LEASE OF A PORTION OF THE RIGHT OF WAY OF SAID NORTHWESTERN PACIFIC RAILROAD COMPANY FOR THE CONSTRUCTION AND OPERATION OF AN INDEPENDENT TRACK FROM A POINT ABOUT ONE HALF MILE WEST OR SOUTH OF WILLITS INTO THE WILLITS RAILROAD YARD; AND OF CERTAIN YARD AND STATION FACILITIES AT WILLITS, MENDOCINO COUNTY, CALIFORNIA.

Application No. 1505.

Decided March 25, 1915.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

FIRST SUPPLEMENTAL ORDER.

This Commission having previously made its order in this application granting permission to the two applicant companies to enter into a certain agreement for the joint use of facilities in and around Willits, referred to in that order as Exhibit “A,” and the two applicant companies now wishing to make a modification in said agreement, relating to the payment for the use of certain of the facilities referred to in the application, and having filed a revised agreement; and it appearing that it is entirely proper for this modification to be made,

It is hereby ordered that this revised agreement, filed on March 3, 1915, be and the same hereby is the agreement binding upon the two parties, in accordance with the terms of the original order of the Commission made on February 6, 1915.

It is hereby further ordered that in all other matters the order of February 6, 1915, shall be in full force and effect.

Dated at San Francisco, California, this 25th day of March, 1915.

DECISION No. 2258.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF THE NEVADA COUNTY NARROW GAUGE RAILROAD COMPANY
WITHIN THE STATE OF CALIFORNIA.

Case No. 178.

Decided March 25, 1915.

REPORT OF THE COMMISSION.

ORDER DISMISSING APPLICATION FOR REHEARING.

Nevada County Narrow Gauge Railroad Company, having under date of March 20, 1915, withdrawn its application for rehearing in the above entitled matter,

It is hereby ordered that said application for rehearing in said matter be and the same hereby is dismissed.

Dated at San Francisco, California, this 25th day of March, 1915.

DECISION No. 2259.

IN THE MATTER OF THE APPLICATION OF NORTHERN ELECTRIC
RAILWAY COMPANY FOR ORDER PERMITTING THE TEMPORARY
SUSPENSION OF THE OPERATION OF THE HAMILTON BRANCH,
BEING A PART OF APPLICANT'S RAILROAD BETWEEN THE CITY
OF CHICO AND THE TOWN OF HAMILTON, IN THE STATE OF
CALIFORNIA.

Application No. 961.

Decided March 25, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant having on March 15, 1915, requested that this application be dismissed,

It is hereby ordered that this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 25th day of March, 1915.

DECISION No. 2260.

TULARE COUNTY POWER COMPANY

vs.

SAN JOAQUIN LIGHT AND POWER CORPORATION.

Case No. 781.

Decided March 25, 1915.

Complainant, operating an electric distributing system in the county of Tulare, and being unable to generate with its steam plant sufficient power to supply its demand, entered into a contract with defendant company by which defendant was to supply it with a minimum stated amount of energy annually. Defendant has discontinued such supply on account of complainant's refusal to pay back bills which amounts, complainant claims, are offset by losses sustained during the failure of this service during the summer of 1913.

Held, That complainant can not supply its peak demand with its present facilities, that the additional energy heretofore obtained from the San Joaquin Company is absolutely necessary to protect its consumers from considerable losses due to lack of energy for pumping purposes and these consumers should not be compelled to suffer through failure of complainant to pay its back bills for energy. That the only way to prevent such loss is the continuation of the contract as heretofore, though defendant should be protected from loss. Complainant accordingly directed to file a bond, approved by the superior judge of Tulare County, sufficient to cover cost of energy to be purchased during the present year under contract from defendant and defendant directed to resume such service to complainant as heretofore.

Charles E. Bush, for Complainant.

Short & Sutherland, for Defendant.

REPORT OF THE COMMISSION.

DEVLIN, Commissioner.

On February 16, 1915, the Tulare County Power Company of Lindsay filed with this Commission its complaint against the San Joaquin Light and Power Corporation, which complaint alleges in effect as follows:

That complainant is a public utility engaged in the business of generating and distributing electrical energy in Tulare County, California; that complainant heretofore in March, 1912, entered into a contract with the defendant wherein defendant agreed to deliver 1,000 horsepower, and thereafter service was rendered in accordance with the terms of this contract. Complainant further alleges that during the summer of 1913 defendant failed to deliver energy to it in accordance with said contract, and that subsequently, when sued for the collection of certain amount due under the contract, it filed a cross-complaint setting forth the damages claimed to have been incurred by reason of the failure of said power supply. That thereafter defendant resumed the service of energy and continued to supply complainant until the 26th day

of October, 1914, when it served notice on complainant that it would discontinue the delivery of electric energy under its contract without cancelling same, and that said supply was thereafter summarily discontinued by defendant; that simultaneously defendant brought suit to collect the amount claimed to be due for energy supplied during August, September and October, 1914; that since the discontinuance of this supply complainant has been able to carry the entire load with its steam plant of 1,500 kilowatt capacity, but that this load is rapidly increasing and after the first of March, 1915, will exceed the capacity of complainant's steam plant; that complainant has been unable to consummate a contract with any other company to furnish electrical energy during the current year. Complaint further states that in case it is unable to obtain additional supply of electric energy, it will be unable to serve a large number of its consumers who are dependent on its service for their water supply, and in event of such failure, the consumers' crops will be greatly damaged and probably destroyed; that complainant has made demand on defendant to recommence the delivery of electrical energy to it under the contract previously referred to and offers to pay monthly in advance for energy to be supplied and that defendant refused to comply with this demand unless all money claimed to be due by defendant should first be paid.

Complainant alleges further that the terms of said contract are unreasonable and burdensome and that other power companies and defendant herein are supplying electrical energy in blocks of 1,000 horsepower or more, at a rate considerably less than that provided in the aforesaid contract.

In its prayer complainant asks that defendant be ordered to recommence the delivery of energy sufficient in amount to enable complainant to carry the load in conjunction with its steam plant, also that the Commission investigate the contract and fix a reasonable rate for this service.

Defendant corporation in its answer filed on March 1, 1915, denies all material allegations of the complaint and in addition avers that the matters involved in the complaint are not within the jurisdiction of this Commission.

A hearing was held in this proceeding in San Francisco on March 12, 1915. Defendant in its answer did not deny, and at the hearing admitted, that it had served complainant in accordance with the contract as set forth in the complaint, and that it had discontinued its service for non-payment of power bills. Counsel for defendant challenged the jurisdiction of the Commission over this matter and urged that the Commission has no power to grant any relief whatever.

In my opinion the Commission has jurisdiction over the subject-matter of this complaint.

It appears from the evidence that there has been a dispute between the parties involved herein as regards the amount of money due under the contract on account of damages claimed to have been sustained by complainant, which matters are now in litigation. Considerable testimony was given by witnesses for complainant in an effort to show the magnitude of such damage. These are matters for determination by a civil court and this Commission is not interested therein except to the following extent: That if the damage claimed could be established so as to result in a judgment in favor of complainant herein for a sum sufficient to completely offset the bill owed defendant for energy, complainant would be in the position of a new applicant for service. It appears, however, that even if complainant could prove all of the damage claimed that there would still be a balance due. Complainant is therefore applying for renewal of service with bills for previous service unpaid.

The points specifically to be determined in this matter are: First, does the need for the auxiliary power supply exist; second, is defendant's plant the only reasonably available means of supplying this need; lastly, is the public necessity of sufficient importance to warrant granting the relief prayed for.

I shall address myself first to the relation of complainant's steam plant capacity to the peak load on its system and the demand to be created on an auxiliary supply.

Complainant's load consists almost exclusively of motors driving pumps for the irrigation of such crops as oranges, lemons, olives and alfalfa, and with a knowledge of the connected load, the demand to be created on the system can be definitely predetermined.

Mr. Holley, engineer for the complainant, estimated that approximately 1,000 horsepower would be required during the coming irrigation season in addition to the complainant's steam generating plant. This Commission's engineering department has made a check of this estimate, based on the connected load and system peak for 1914, as shown in complainant's annual report. This indicated an over-all diversity factor of 1.41. Complainant's present connected load is 4,763 horsepower, hence we should expect a system peak during 1915 of approximately 3,370 horsepower. The rated capacity of complainant's generating plant is 2,000 horsepower, but the operating records show that it has carried loads up to 2,300 horsepower, for considerable periods of time, without injury. Using this as a basis, we find that complainant will require somewhat in excess of 1,000 horsepower in addition to its present generating capacity.

Considering next the effect of possible shortage of this amount of power: It was admitted by defendant that complainant's consumers were wholly dependent upon a supply of electric energy for the opera-

tion of their plants, and that any failure of this supply during the irrigation season would mean material injury, and probably destruction to their crops. Complainant's engineer testified that the system peak might be reduced some 400 or 500 horsepower by prearranged rotation of consumers' demands, but that this would probably result in some injury to crops on account of insufficient irrigation, and would still leave some 1,000 horsepower of motors without supply.

Counsel for defendant suggested that inasmuch as some 75 per cent of complainant's distribution system is duplicated by that of the Mt. Whitney Company, a portion of the Tulare Company's consumers, sufficient to relieve it of excess load might be transferred to the Mt. Whitney Company. This plan appears simple at first sight, but presents certain difficulties which render it impracticable. The Mt. Whitney distribution is 2-phase and that of the Tulare Company, 3-phase. A change over as suggested would involve alterations in consumers' transformers, motor and switchboard, the cost of which would be approximately \$50.00 for the average plant, all of which would necessarily be borne by the consumer. The Commission is interested in obtaining service at a reasonable cost, and this, if a temporary arrangement, would place an undue burden upon the consumer. Another factor which would prevent the adoption of such an arrangement is the limited generating capacity of the Mt. Whitney Company. In 1914 this company was compelled to generate 1,504,800 kilowatt hours with its steam plant as compared with 992,100 kilowatt hours for defendant's system, and this year, owing to the increased load, the output will probably be considerably in excess of this figure. The fuel cost (which is some 60 per cent of the total cost of operation) of the Mt. Whitney steam plant, located at Visalia, is nearly twice as great as that obtaining at defendant's Bakersfield plant.

Considering next the adequacy of defendant's system to supply the load required by complainant: It was the testimony of Mr. Walthall, assistant general manager of defendant, that his company would be able to carry this load during the current year, but that it would necessitate longer operation of the Bakersfield steam plant during the low water period. The operating records of defendant on file with the Commission bear out Mr. Walthall's statement. In 1913 defendant was forced to call on the Southern California Edison Company for an emergency supply of energy, and to operate its steam plant to capacity for several months. During the peak period it was obliged to discontinue supplying the Tulare County Company, as recited in the complaint.

This year defendant's operating conditions are materially improved as compared with those of 1913. An additional generator of 7,800 kilowatt capacity has been added to the Bakersfield steam plant, the

6,000 kilowatt Tule River hydroelectric plant has been installed and a reservoir of some 46,000 acre feet has been completed in the San Joaquin watershed. The water conditions are rather better than in 1913, and the load has not increased very materially.

Consideration of these factors indicates that defendant will have sufficient capacity and is in a far better condition to handle this load than the Mt. Whitney Company. Having disposed of the question of the adequacy of the available supply and the amount of demand to be created by complainant, I shall next discuss the equities involved in granting the relief requested by complainant.

The maintenance of service is imperative in this case owing to the seriousness of discontinuance. The public necessity exists, as is admitted by both companies, and the Commission must look for the best, quickest and most reasonable means of obtaining service. While, under some circumstances we would refuse to require a utility to resort to civil action to collect its ordinary bills, by depriving it of the coercive effect of discontinuance, because such action would increase the cost of service, the amount involved herein is of such magnitude as to warrant suit for its collection and the cost of such litigation should be a small percentage of the amount due. The matter is, in fact, already before the court. There can be no question as to the urgency of the need for service in this case, and it is the need of consumers who are not responsible for the non-payment of complainant's account.

Under the circumstances of this case I am of the opinion that inasmuch as complainant is unable, without assistance, to supply the energy required by its consumers, the Commission should require such measures to be taken as will protect these consumers from injury to their crops, providing such action does not work undue hardship on the company furnishing such additional energy. It appears that by ordering defendant to resume service we will not prejudice its claims or rights in the collection of past bills. However, if such order is made it is but fair to defendant that this Commission should provide security for future payment and protect defendant from any possible recurrence of previous delinquency on the part of the complainant. I believe that this can be accomplished if complainant give bond or other security sufficient to insure payment of one year's power bill, same to be approved by the judge of the Superior Court of Tulare County.

Defendant contended at the hearing that payment should be secured for four or five years. This would seem unduly burdensome to complainant and unnecessary for defendant's protection, inasmuch as at the expiration of the guarantee for the ensuing year complainant will be in its present situation, that is, it will require auxiliary power for the year to come.

Another phase of this matter which was mentioned in the complaint, is the reasonableness of the contract rate—\$40.00 per horsepower year. The Commission was petitioned to fix a reasonable rate. This was subordinate to the main issue—power service—and was not referred to by either party at the hearing. The Commission is now conducting a comprehensive investigation of the cost of service over the entire system of the San Joaquin Light and Power Corporation, which, when completed, will render the determination of the reasonableness of this rate comparatively simple. Complainant also asked the Commission to reduce the basis of the minimum from 1,243 horsepower to 1,000 horsepower, claiming that the higher demand was accidental and its continuance burdensome and unreasonable. This matter, the method of determining demand, is also involved in the cost of service, and I recommend that no action be taken on either of these points pending the completion of the analysis in Cases No. 618, No. 655 and No. 732 above mentioned, and that service be renewed according to the terms of the contract as it now stands. Investigation of these matters can be conducted concurrently with the other investigation, and if it is found that either the rate or the provisions of the contract are unreasonable, relief can be afforded by supplemental order. Defendant appeared to be somewhat in doubt as to its ability to supply the higher demand—1,243 horsepower—and inasmuch as a reduction is desired by complainant, I believe that it should be left to the option of defendant whether it shall supply 1,243 horsepower or 1,000 horsepower.

I submit herewith the following form of order:

ORDER.

The Tulare County Power Company, having filed with this Commission its complaint against the San Joaquin Light and Power Corporation, alleging that said defendant had refused to supply it with electric energy under a contract previously entered into, and requesting this Commission to order a renewal of this service, and a public hearing having been held thereon and being fully apprised in the premises, the Commission finds as a fact that the generating system of the Tulare County Power Company is inadequate to supply its present consumers; that it will be necessary that the Tulare County Power Company obtain additional supply of energy in order to serve said consumers; that the system of the San Joaquin Light and Power Corporation offers the most available and only practicable means of obtaining this additional supply. Based on the foregoing findings of fact, and the other findings set forth in the opinion preceding this order,

It is hereby ordered that the Tulare County Power Company procure and give sufficient bond or other equivalent security, the same to be approved by the judge of the Superior Court of Tulare County, to cover the payment of power for one year, either 1,243 horsepower or 1,000

horsepower as defendant at its option hereafter shall elect; that upon tender of said bond or other security defendant shall within twenty-four hours recommence delivery of energy to complainant as provided in their contract; and it is further ordered that the effective date of this order shall be March 29, 1915.

It is to be specifically understood that the rate to be paid by complainant for service as herein provided shall be \$40.00 per horsepower per year unless otherwise fixed by this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of March, 1915.

Decision No. 2261, grade crossing; not printed. See end of volume.

DECISION No. 2262.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA GAS AND POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 1590.

Decided March 26, 1915.

Applicant, operating a natural gas distributing system in portions of Santa Barbara and San Luis Obispo counties, applies for and is granted permission to issue \$25,000.00 face value of bonds to be sold at not less than par, proceeds to be used to retire certain notes of the aggregate face value of \$20,000.00, the balance to reimburse treasury for money expended for capital purposes.

George H. Whipple, of Chickering and Gregory, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

This is an application by Santa Maria Gas and Power Company for authority to issue and sell \$25,000.00, face value, of its first mortgage, 6 per cent twenty-year sinking fund gold bonds, at par.

Applicant proposes to use \$20,000.00 to be derived from the sale of its bonds to pay the following notes:

| In whose favor | Date | | Rate of interest | Amount |
|---|---------------|----------|------------------|-------------|
| | Issue | Maturity | | |
| First National Bank of Santa Maria (now held by James F. Goodwin)..... | May 22, 1911 | 1 day | 6% | \$5,000 00 |
| A. E. Watson..... | Jan. 31, 1914 | 1 day | 6% | 1,000 00 |
| Ida M. Twitchell..... | Oct. 1, 1915 | 1 day | 6% | 5,000 00 |
| First National Bank of Santa Maria | Jan. 11, 1915 | 1 day | 6% | 6,000 00 |
| James F. Goodwin..... | Feb. 6, 1915 | 1 day | 6% | 3,000 00 |
| Total | | | | \$20,000 00 |

The remaining \$5,000.00 to be obtained from the sale of its bonds applicant desires to use to reimburse its treasury for moneys expended out of income to defray the cost of extensions, additions and betterments to its plant.

Santa Maria Gas and Power Company has an authorized stock issue of \$250,000.00, divided into 2,500 shares of \$100.00 each. Applicant has stock to the par value of \$100,000.00 outstanding.

According to this application, applicant during 1914, declared what in a large measure amounts to a stock dividend of \$45,000.00. The dividend was not paid in cash but was used to offset unpaid subscriptions on capital stock of the par value of \$50,000.00, issued in pursuance of a resolution of the board of directors adopted March 13, 1912, a copy of which resolution was filed in connection with Application No. 126.

Santa Maria Gas and Power Company has an authorized bond issue of \$250,000.00. The payment of these bonds is secured by a mortgage and deed of trust, dated April 13, 1907, which is a lien on all of the property of the company now owned or hereafter acquired. The bonds, which are of the denomination of \$500.00, are dated April 15, 1907, and mature April 15, 1927. They bear 6 per cent interest, payable April 15th and October 15th of each year.

The company is obliged to pay to the trustee, Title Guarantee and Trust Company, for the purposes of a sinking fund on the first day of January, 1912, and annually thereafter, to and including January 1, 1926, out of net earnings (but not otherwise and before any dividend shall thereafter be declared upon its stock) a sum which shall be equivalent to not less than 1 per cent, nor more than 4 per cent of the bonds outstanding.

The board of directors of Santa Maria Gas and Power Company has exercised its discretion and has paid annually to the trustee for the purposes of the sinking fund an amount equivalent to 1 per cent of the bonds outstanding. Under this deed of trust applicant has issued bonds to the face value of \$76,000.00. Bonds to the face value of \$2,000.00 have been retired through the operation of the sinking fund.

Santa Maria Gas and Power Company owns no gas generating plant, but obtains natural gas under contract, and distributes it in portions of Santa Barbara and San Luis Obispo counties, including the towns of Betteravia, Nipomo, Guadalupe, Arroyo Grande, Santa Maria and intervening territory.

Applicant secures the natural gas which it distributes from Pinal-Dome Oil Company under a twenty-year contract dated November 22, 1912; from Union Oil Company of California under a twenty-year contract dated August 1, 1911; from Brookshire Oil Company under ten-year contract dated February 16, 1907. While applicant's contract

with Brookshire Oil Company terminates in 1917, a new ten-year contract has been entered into with this company which becomes effective February 16, 1917.

Santa Maria Gas and Power Company has reported earnings and expenses to this Commission for the years ended December 31, 1913 and 1914, as follows:

| | Year ended December 31, 1914 | Year ended December 31, 1913 |
|---------------------------------------|------------------------------------|------------------------------------|
| Operating revenues | \$16,476 75 | \$49,529 78 |
| Operating expenses | 28,689 42 | 31,327 10 |
| Net operating revenue..... | \$17,787 33 | \$18,202 68 |
| Other income | 175 00 | 175 00 |
| Gross corporate income..... | \$17,962 33 | \$18,377 68 |
| Deductions: | | |
| Interest on bonds..... | \$1,477 50 | \$1,510 00 |
| Other interest | 471 78 | 763 06 |
| Uncollectible bills | 519 38 | 230 66 |
| Non-operating taxes | | 206 73 |
| Total deductions | \$5,468 66 | \$5,710 45 |
| Surplus for year from operations..... | \$12,493 67 | \$12,667 23 |

Santa Maria Gas and Power Company reports assets and liabilities as of December 31, 1914, as follows:

| | |
|---------------------------------------|--------------|
| Assets: | |
| Fixed capital | \$247,471 80 |
| Cash | 20 00 |
| Due from consumers and agents..... | 6,445 05 |
| Materials and supplies..... | 4,349 06 |
| Sinking funds | 10 00 |
| Prepaid insurance | 124 25 |
| Suspense | 1,882 84 |
| Total assets | \$260,303 00 |
| Liabilities: | |
| Stock outstanding | \$100,000 00 |
| Bonds outstanding | 74,000 00 |
| Notes payable | 17,000 00 |
| Accounts payable | 13,990 51 |
| Interest accrued | 1,392 50 |
| Taxes accrued | 1,520 91 |
| Reserve for accrued depreciation..... | 29,972 48 |
| Capital surplus | 5,953 23 |
| Corporate surplus unappropriated..... | 16,473 37 |
| Total liabilities | \$260,303 00 |

Witness for applicant called attention to the appraisal of the plant of Santa Maria Gas and Power Company as of February 16, 1915, by F. C. Millard. This appraisal, exclusive of so-called intangibles, non-operative real estate valued at \$12,700.00 and certain rights of way,

shows a reproduction value of \$286,580.28. This amount is composed of the following items:

| | |
|-------------------------------|---------------------|
| Real estate (operative) ----- | \$5,620 00 |
| Buildings ----- | 13,289 06 |
| Field collection system ----- | 10,481 35 |
| Compression system ----- | 38,226 70 |
| Distribution system ----- | 204,154 12 |
| Working equipment ----- | 14,809 05 |
| Total ----- | <u>\$286,580 28</u> |

The reproduction value as reported includes a 10 per cent allowance amounting to \$41,744.66, for contractors' profits, incidentals, engineering, contingencies, administration, taxes and interest during construction. Applicant states that the reproduction value of all its tangible property amounts to \$301,296.08.

While I refer to these values, I do so merely to indicate that there appears to be a sufficient margin between the value of applicant's plant and the amount of bonds outstanding, plus the bonds to be issued in pursuance of this application, and in no way to approve or disapprove the values submitted in connection with this application.

Applicant alleges that it has extended its transmission line from Arroyo Grande to within one and three-fourth miles of San Luis Obispo. The actual cost of this extension is reported as follows:

| | |
|--|--------------------|
| Pipe and materials and supplies purchased in the year 1914, including freight ----- | \$17,652 74 |
| Labor ----- | 3,054 76 |
| Rights of way ----- | 100 00 |
| Freight, additional ----- | 98 48 |
| Estimated cost of labor, to complete said extension ----- | 1,000 00 |
| Sundries, incidental ----- | 949 74 |
| Total ----- | <u>\$22,855 72</u> |
| Cost of materials purchased prior to 1914 ----- | <u>2,949 00</u> |
| Total cost of extension ----- | <u>\$25,804 72</u> |

In addition to the cost of the extension to which reference has been made, applicant alleges that it expended for additions and betterments subsequent to January 1, 1914, the sum of \$7,627.02. The total cost of extensions, additions and betterments to applicant's plant as reported in this application amounts to \$33,431.74. Of this amount, \$15,000.00 was obtained from loans represented by notes payable, \$17,931.24 from income, and \$500.50 is represented by accounts payable.

In view of the foregoing facts submitted to this Commission I recommend that this application be granted and herewith submit the following form of order:

ORDER.

Santa Maria Gas and Power Company having made application to this Commission for authority to issue \$25,000.00, face value, of its first mortgage 6 per cent twenty-year sinking fund gold bonds, as set forth in the foregoing opinion; and a hearing having been held and it appearing that the purposes for which it is desired to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Santa Maria Gas and Power Company be given authority and it is hereby given authority to issue \$25,000.00, face value, of its first mortgage 6 per cent twenty-year sinking fund gold bonds under its mortgage and deed of trust to Title Guarantee and Trust Company of Los Angeles, dated April 15, 1907.

The authority herein given is given upon the following conditions and not otherwise:

- (1) The bonds herein authorized to be issued shall be sold by the applicant at not less than par.
- (2) The proceeds derived from the sale of the bonds shall be used for the following purposes:
 - (a) To discharge the following notes:

| In whose favor | Date | | Rate of Interest | Amount |
|---|---------------|----------|------------------|--------------------|
| | Issue | Maturity | | |
| First National Bank of Santa Maria (now held by James F. Goodwin)..... | May 22, 1911 | 1 day | 6% | \$5,000 00 |
| A. E. Watson..... | Jan. 31, 1914 | 1 day | 6% | 1,000 00 |
| Ida M. Twitchell..... | Oct. 1, 1915 | 1 day | 6% | 5,000 00 |
| First National Bank of Santa Maria | Jan. 14, 1915 | 1 day | 6% | 6,000 00 |
| James F. Goodwin..... | Feb. 6, 1915 | 1 day | 6% | 3,000 00 |
| Total | | | | \$20,000 00 |

(b) To reimburse applicant's treasury for moneys expended out of income, to defray cost of extensions, additions and betterments, \$5,000.00.

- (3) Santa Maria Gas and Power Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the

moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

- (4) The authority herein granted shall apply to such bonds as shall have been issued on or before December 31, 1915.
- (5) The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of March, 1915.

DECISION No. 2263.

IN THE MATTER OF THE APPLICATION OF CITY AND COUNTY OF SAN FRANCISCO FOR PERMISSION TO CONSTRUCT ITS DOUBLE TRACK STREET RAILWAY AT GRADE ACROSS THE TRACKS OF SOUTHERN PACIFIC COMPANY AT POTRERO AVENUE AND DIVISION STREET IN THE CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA.

Application No. 1170.

Decided March 26, 1915.

City and county of San Francisco, operating a municipal railway, applies for permission to construct the tracks of such railway across the main line tracks of the Southern Pacific Company, the conditions governing same having been agreed upon with the exception of the proportionment of cost of maintenance and renewals thereof, applicant contending that the Southern Pacific Company should share equally in such cost, which arrangement is contrary to the general rules followed by the Commission in matters of this nature.

Held, That the fact that applicant is a municipally owned road is no reason why it should be given more consideration than privately owned lines. Application to construct crossing granted provided applicant shall bear the cost of maintenance of same hereafter in good condition, and that if necessary Southern Pacific Company shall do such work, billing applicant for the cost thereof.

Robert W. Searle, for City and County of San Francisco.

E. J. Foulds, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This application was filed with the Commission on June 6, 1914, and was accompanied by a letter from the Southern Pacific Company to the effect that no objection would be made to the granting of this application provided the city would in due course enter into formal agree-

ment substantially in accordance with the terms of a tentative agreement which was attached to the letter. Acting upon this letter and the representation of the city officials that the lack of the crossings was costing them considerable money every day, the Commission informally granted permission for the crossings to be made, and it was the intention to enter an *ex parte* order to cover the application at such time as a final agreement between the two companies was filed. The Commission was later advised by the city that it was unable to agree with the Southern Pacific Company regarding certain conditions in the agreement to be made between them, and a public hearing was subsequently held in San Francisco.

The city and county of San Francisco by charter is empowered to construct and operate street railway lines, and acting upon this provision of the charter under the name of the Municipal Railway, it wished to construct its double track line across the two main lines and an industrial siding of the Southern Pacific at Division and Potrero streets, and this application covered these desired crossings.

At the hearing it was stated that the only matters in which the Southern Pacific Company and the officials of the Municipal Railway, on behalf of the city and county of San Francisco, failed to agree was in regard to two provisions, namely: determining the division of expense regarding the maintenance and renewal of the crossings and the crossing frogs which had previously been installed at the expense of the city; and the terms upon which an interlocking plant should be constructed if at some future date it became necessary or was ordered by the municipal or other lawful authority. It was stated by representatives of both parties that an interlocking plant was not now needed for the protection of these crossings, and this was confirmed by the report of our own engineering department which had made an investigation upon the ground. Since this particular matter, then, was not likely to become of importance for some time in the future, it was stipulated by both parties that the contract which should be executed by them would omit all reference to an interlocking plant, hence the matter to be determined in regard to this application is merely that of the division of the maintenance expense of the crossings and crossing frogs.

The Southern Pacific Company, for its two main tracks, has a franchise from the city permitting them to cross the street in question, Potrero avenue. The industrial spur, however, exists merely on sufferance from the city and no franchise for it has been obtained by the Southern Pacific Company. It is the contention of the city that the crossing of the two main line tracks of the Southern Pacific Company by the Municipal Railway should be maintained at an expense to be divided equally between the two parties at interest, and that the South-

ern Pacific Company should maintain the crossing of the spur track. It is the further contention of the city that it is customary in matters of this kind for the expense to be so divided, and that in this particular case, since the junior company is a municipal corporation, it is not necessarily fair to follow the usual terms of such contracts if they are not in accordance with the division of expense proposed by the city.

The representative of the Municipal Railway is clearly wrong in regard to the former matter. The Commission, almost without exception, in cases of this sort, has assessed the maintenance of new crossings against the junior companies, and the examination of many such applications heard by the Commission, when the division of expense had been previously agreed to by both interested parties, shows that in the majority of cases this division of expense has been on the basis of the junior company installing and maintaining the crossings. In a recent application before the Commission, under similar circumstances, the city of Los Angeles voluntarily entered into a contract with the Southern Pacific Company for two crossings in the city of Los Angeles in which it was provided that the expense of maintaining these two crossings should be borne by the city as the junior line.

In regard to this particular case I am of the opinion that the Municipal Railway in this connection should be treated as any other common carrier would be. If the city desires terms from the various companies which operate within its limits, favorable to its municipal lines, these matters should be covered by ordinance and in the franchises it grants, and I believe the Commission should make no departure from its usual practice, which has been found to be fair and equitable in other similar cases, simply because, in this particular instance, the owner and operator of the junior road is a municipal corporation as well as a common carrier.

After the hearing the parties at interest, in a conference, revised the tentative agreement heretofore mentioned and submitted a copy of the same, as revised, to the Commission, which copy contained those matters concerning which the two parties were in agreement, and outlined those in which they had failed to agree and on which they wished a decision by the Commission.

In addition to the question discussed above and in close connection with it, is the question of granting to the Southern Pacific the right to enter upon these crossings and maintain them, sending bills therefor to the Municipal Railway, if the Municipal Railway does not keep them properly in repair. It appears to be standard practice to embody such a clause in contracts of this kind, and it seems necessary for the protection of the senior road that such a provision should be present in such contracts. I believe it entirely proper for such a clause to be added in this instance, and I believe that the customary provision

obtaining in such cases, that 10 per cent can be added to the labor items to cover the cost of supervision and use of tools, is also proper.

I recommend the following form of order:

ORDER.

City and County of San Francisco, hereinafter called the Municipal Railway, having applied to the Commission for permission to construct its double track street railway at grade across the tracks of Southern Pacific Company, at Potrero avenue and Division street, as hereinafter indicated, in the city and county of San Francisco, California, and a public hearing having been held, at which all interested parties were represented, and the Commission being fully apprised in the premises,

It is hereby ordered that the Municipal Railway be and the same is hereby granted permission to construct its double track railway at grade over three tracks of the Southern Pacific Company at Potrero avenue and Division street, in the place and manner shown on the map accompanying the application, subject to the following conditions, viz:

(1) The installation, operation, maintenance and protection of these crossings shall be in accordance with the tentative agreement as revised and filed with the Commission on March 23, 1915, except in regard to matters herein specifically mentioned.

(2) The entire expense of maintaining these crossings in a good and first-class condition shall be borne by the Municipal Railway, except as otherwise stipulated in the ordinance and franchise granted by the applicant to Southern Pacific Company.

(3) If these crossings are not maintained by the Municipal Railway in a safe and proper condition for the operation thereover of the trains of Southern Pacific Company, Southern Pacific Company shall perform such work thereon as may be necessary, and the Municipal Railway shall pay to Southern Pacific Company the cost thereof on demand, plus ten (10) per cent to be added to the labor items to cover supervision and use of tools, except as otherwise stipulated in the ordinance and franchise granted by the applicant to Southern Pacific Company.

(4) No train, motor or car of Municipal Railway shall be permitted by it to pass over said crossings without first coming to a full stop within twenty (20) feet thereof, and until one of the crew or other employee of Municipal Railway shall first go upon said crossings and ascertain that no engine, train, motor or car of Southern Pacific Company be upon or approaching said crossings in either direction, whereupon he may signal and permit his train, motor or car to proceed over said crossings if no engine, train, motor or car of Southern Pacific Company be upon or approaching same.

(5) The Commission reserves the right to make such further orders relative to the construction, maintenance and protection of these cross-

ings, and the terms of agreement between the two companies in regard to same, as to it may seem right and proper, and it further reserves the right to revoke its permission in this regard if public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of March, 1915.

DECISION No. 2264.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (COAST LINES), FOR AUTHORITY TO INCREASE PASSENGER FARES BETWEEN CERTAIN POINTS ON ITS LOS ANGELES DIVISION.

Application No. 1444.

Decided March 26, 1915.

Applicant, having been directed to eliminate certain violations of the long and short haul provisions of the constitution appearing in its passenger rates between Los Angeles and San Diego, applies for permission to increase its present rates to intermediate points along its Los Angeles division, claiming that there is very little travel under such rates, and that to reduce its through rates would materially affect its present passenger revenues.

Held, That applicant has failed to establish the fact that the rates proposed to be increased are unduly low, and that as a 3-cent per mile passenger rate is conceded by carriers to be a just rate for such service, that the Los Angeles-San Diego rate, if reduced to this basis, would eliminate the violations at present existing, application denied.

E. W. Camp and *J. F. Heid*, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

In this application the Atchison, Topeka and Santa Fe Railway Company (Coast Lines), seeks authority to increase certain passenger fares between points on its Los Angeles division. The application is the outcome of the Commission's order in Case No. 214 (Application No. 4), directing the petitioner to present to the Commission for its approval within sixty days from the date of said order a proposed schedule of passenger fares between points on its Los Angeles division, fully meeting the requirements of section 21, article 12, of the constitution, prohibiting the charging of any greater compensation as a through fare than the aggregate of the intermediate fares.

As many of the increases proposed are in rates which apply between points between which there has heretofore been little, if any, passenger traffic, it is considered unnecessary to herein set out in detail all the

fares which it is proposed to increase. The extent and effect of the proposed increases in fares on which there was any travel during the month of December, 1914, are shown in the following table:

Month of December, 1914.

| Between | And | Fares | | | Revenue | | |
|---------------------|---------------------------|---------|----------|------------------|---------------------|----------------------|----------------|
| | | Present | Proposed | Number collected | Under present fares | Under proposed fares | Increase |
| Santa Ana ----- | Irvine ----- | \$0 25 | \$0 30 | 247 | \$61 75 | \$74 10 | \$12 39 |
| | San Onofre ---- | 1 00 | 1 05 | 23 | 23 00 | 24 15 | 1 15 |
| | Anaheim ----- | 20 | 25 | 179 | 35 80 | 44 75 | 8 95 |
| Irvine ----- | San Onofre ---- | 80 | 85 | 5 | 4 00 | 4 25 | 25 |
| | El Toro ----- | 15 | 20 | 14 | 2 10 | 2 80 | 70 |
| | Mateo ----- | 65 | 70 | 1 | 65 | 70 | 05 |
| | San Diego ----- | 2 55 | 2 70 | 3 | 7 65 | 8 10 | 45 |
| Aliso ----- | San Juan Capistrano ----- | 60 | 65 | 1 | 60 | 65 | 05 |
| San Onofre ----- | El Toro ----- | 65 | 70 | 5 | 3 25 | 3 50 | 25 |
| | San Juan Capistrano ----- | 35 | 40 | 24 | 8 40 | 9 60 | 1 20 |
| San Diego ----- | El Toro ----- | 2 40 | 2 55 | 10 | 24 00 | 25 50 | 1 50 |
| | San Juan Capistrano ----- | 2 15 | 2 25 | 28 | 60 20 | 63 00 | 2 80 |
| | San Onofre ---- | 1 80 | 1 85 | 38 | 68 40 | 70 30 | 1 90 |
| | Las Flores ---- | 1 50 | 1 55 | 5 | 7 50 | 7 75 | 25 |
| | Don ----- | 1 55 | 1 60 | 2 | 3 10 | 3 20 | 10 |
| Totals ----- | | | | | \$310 40 | \$342 35 | \$31 95 |

Yearly increase in revenue, based on showing above for one month, \$383.40.

It will be noted that the proposed increases range from five to fifteen cents, also that the yearly increase in revenue based on the traffic during December, 1914, will be approximately \$383.40 if the proposed advances are authorized.

The petitioner contends that when the fares under consideration were established the basis was 3 cents per mile and in constructing fares at that time it was the custom to add sufficient to the fares ending in odd cents to uniformly make the fares end in an even multiple of 5. For instance, the fare between Los Angeles and San Diego was fixed at \$3.85, although if computed at the rate of 3 cents per mile for the distance of 126.5 miles it would actually be \$3.79. This method of constructing fares, it is stated, made the through fare in some cases exceed the aggregate of the intermediate fares, but this condition was not considered improper until the constitution was amended and the present prohibition in regard thereto incorporated therein. It is now contended by the petitioner that it should be permitted to increase the fares between the intermediate points between which the travel is light so as to preserve the integrity of the fares between the more distant points

between which there is extensive travel; otherwise its passenger revenue, which it considers unremunerative under the existing fares, will be materially reduced. It is stated, for example, that if the application is denied and the petitioner required to bring its fares within the constitutional requirements, it will be necessary to reduce the fares between San Diego and Los Angeles and other points and the revenue of the petitioner will be materially impaired. The extent of the reduction in the revenues of the petitioner, if the fares between more distant points are reduced as a consequence of the denial of this application, is exhibited in the following table:

Month of December, 1914.

| Between | And | Fares | | | Revenue | | |
|-------------|---------------|---------|---|------------------|---------------------|---|----------|
| | | Present | If reduced to aggregate of present intermediate | Number collected | Under present fares | If reduced to aggregate of present intermediate | Decrease |
| San Diego-- | Los Angeles-- | \$3 85 | \$3 80 | 3,574 | \$13,759 90 | \$13,581 20 | \$178 70 |
| | Orange ----- | 3 00 | 2 85 | 39 | 117 00 | 111 15 | 5 85 |
| | Santa Ana -- | 3 00 | 2 80 | 234 | 702 00 | 655 20 | 46 80 |
| | Totals ----- | | | | \$14,578 90 | \$14,347 55 | \$231 35 |

Yearly decrease in revenue, based on showing above for one month, \$2,776.20.

Comparing this table with the table hereinbefore set out, it appears that, if the application to increase the fares to certain intermediate points is granted, it will not materially increase the applicant's revenue as the additional revenue for a period of one year would approximate but \$385.00; whereas, if the petitioner's application is denied and it is required to establish between San Diego and Los Angeles, Orange and Santa Ana, fares that do not exceed the aggregate of the present intermediate fares, a substantial reduction in its revenue will be sustained, approximately \$2,776.20 per annum.

The Associated Chambers of Commerce of Orange County, California, protested the proposed increases in fares on the grounds that the present fares are just and reasonable in and of themselves and that any increase therein would be unjust and discriminatory against said intermediate points in that a higher rate per mile would be charged between said intermediates than between more distant points.

An examination of the fares applying between points on applicant's Los Angeles division does not disclose that in fixing the fares between the points located thereon that a basis of 3 cents per mile was adhered to or that the applicant in every case increased the fares ending in odd cents to the next higher multiple of 5, as was testified by witness for applicant at the hearing. This conclusion is substantiated by the following statement of fares and mileages taken from applicant's

Petition No. 4, Case No. 214, filed with the Commission on December 28, 1911:

| Los Angeles to | Mileage | Figured at three cents per mile would be | Present fare |
|---------------------------|---------|--|--------------|
| Fullerton | 23.8 | \$0 71 | \$0 70 |
| Anaheim | 26.6 | 79 | 80 |
| Orange | 31.4 | 94 | 90 |
| Santa Ana | 34.3 | 1 02 | 1 00 |
| Aliso | 36.3 | 1 08 | 1 10 |
| Irvine | 41.8 | 1 25 | 1 25 |
| El Toro | 46.9 | 1 40 | 1 40 |
| Gallivan | 50.9 | 1 52 | 1 55 |
| San Juan Capistrano..... | 56.0 | 1 68 | 1 70 |
| Serra | 58.6 | 1 75 | 1 75 |
| Mateo | 62.7 | 1 88 | 1 90 |
| San Onofre | 67.5 | 1 92 | 2 00 |
| Don | 74.8 | 2 24 | 2 25 |
| Las Flores | 77.5 | 2 32 | 2 30 |
| Los Angeles Junction..... | 82.9 | 2 48 | 2 50 |
| Oceanside | 85.0 | 2 55 | 2 55 |
| Escondido Junction | 86.0 | 2 58 | 2 60 |
| Carl | 88.1 | 2 64 | 2 65 |
| La Costa | 93.1 | 2 79 | 2 80 |
| Merle | 94.6 | 2 83 | 2 85 |
| Encinitas | 96.9 | 2 90 | 2 90 |
| Oardiff | 98.6 | 2 95 | 2 95 |
| Del Mar | 102.8 | 3 08 | 3 10 |
| Sorrento | 107.9 | 3 23 | 3 25 |
| Linda Vista | 111.8 | 3 35 | 3 35 |
| Selwyn | 113.3 | 3 39 | 3 40 |
| Ladrillo | 118.1 | 3 54 | 3 55 |
| Pacific Beach | 119.6 | 3 58 | 3 60 |
| Old Town | 122.9 | 3 68 | 3 70 |
| San Diego | 126.5 | 3 79 | 3 85 |
| National City | 131.9 | 3 95 | 3 95 |

It appears from the foregoing that fares were constructed on a more or less arbitrary basis. If the fares had been uniformly constructed on a basis of 3 cents per mile and fractional fares increased in all cases to the next multiple of 5, as alleged by applicant, the aggregate of the intermediate fares would not have been exceeded, in any case, by the fares between more distant points.

It was also stated by the witness for the applicant that the average cost of operating passenger trains per mile in California was \$1.24, but it is impossible from the data filed in this case to determine the accuracy of that statement or its particular applicability to conditions on the Los Angeles division; nor did the applicant furnish any statement of the earnings per passenger train mile for the entire Los Angeles division for the same period to enable the Commission to determine whether the present fares are remunerative.

The applicant further contends that inasmuch as the travel on the fares which it seeks to increase is slight that it should be permitted to

advance same to preserve the integrity of the fares to more distant points, although it admits that the intermediate fares are not in and of themselves unduly low. This contention simply means that the carrier desires to maintain its fares between the more distant points so as to preserve its present revenue regardless of the effect of increasing the intermediate fares.

There was no showing made by the applicant that the aggregate of the present intermediate fares would not be just and reasonable fares between the more distant points, and in fact if the Los Angeles-San Diego fare of \$3.85 is reduced to \$3.80 so as not to exceed the aggregate of the intermediate fares, that line will receive 3 cents per mile as is indicated by the statement hereinbefore set out and which rate the applicant states is generally recognized as a reasonable passenger fare rate.

The mere fact that the applicant's revenue will be diminished if its through fares are reduced to the aggregate of its intermediate fares is no justification for increasing the intermediate fares if they themselves are not unreasonably low, and if the aggregate of such fares is not unreasonably low for the service between more distant points.

I am of the opinion that the applicant has failed to justify the proposed increases in its passenger fares and that the application should be denied.

I recommend the following form of order:

ORDER.

The Atchison, Topeka and Santa Fe Railway Company (Coast Lines), having filed its application for authority to increase certain of its passenger fares on its Los Angeles division, and a public hearing having been held in said application and a full investigation of the matters and things involved having been had, and the Commission being of the opinion that the applicant has failed to justify the proposed increase in fares,

It is hereby ordered that the application in the above entitled proceeding be and it is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of March, 1915.

DECISION No. 2265.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR PERMISSION TO ABANDON AGENCY AT NATOMA STATION, CALIFORNIA.

Application No. 1490.

Decided March 31, 1915.

Southern Pacific Company applies for permission to discontinue its agency station at Natoma; and after review of the traffic through such agency, it appearing that the application should be granted, Southern Pacific permitted to close its agency at Natoma, provided it shall keep open its passenger waiting room; that its agent at Folsom shall be subject to call should the services of an agent be necessary for the checking of damaged shipments, etc.; and also providing that after a period of six months, should it appear that an agent is required, such agency shall be re-established.

F. B. Austin, for Applicant.

John T. Pigott and *L. D. Hopfield*, for Natomas Consolidated of California, Protestant.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This is an application of the Southern Pacific Company requesting permission to abandon the agency station now maintained at Natoma, it being alleged that the revenue derived at said agency does not justify the expense necessary in the maintenance of an agent at that point. A public hearing was held at Sacramento on March 22, 1915, at which time all interested parties were represented.

The station of Natoma is located on the Placerville branch of the Sacramento division of the Southern Pacific Company, and is one mile west of the agency at Folsom. The station was originally established in November, 1908, as an agency in view of the large shipments originating with and destined to the Natomas Consolidated of California. The Natomas Consolidated of California is a corporation interested in the business of gold dredging, the manufacture of crushed stone and rock and in the reclamation of land which may have been worked over in connection with their gold dredging operations. A large rock-crushing plant was formerly operated by the Natomas Consolidated at this point and furnished a heavy tonnage in the way of shipments until the plant was shut down in the month of June, 1913, though the accumulation of the manufactured rock was shipped out until the month of March, 1914. The rock-crushing plant has been dismantled and there is no immediate prospect of this phase of the Natomas Consolidated business being resumed. As evidence of the falling off of rock shipments the following

statistics showing shipments made over the line of the Southern Pacific Company are of interest:

| Year. | No. of cars. |
|------------|--------------|
| 1912 ----- | 4,441 |
| 1913 ----- | 3,650 |
| 1914 ----- | 1,532 |

The Natomas Consolidated maintain and operate a machine shop at Natoma in which the construction, reconstruction and repair of the dredgers and the accessory mechanism is handled. A store room is also maintained in which supplies are kept for distribution to the machine shop and the various dredgers in the operating field. The operating headquarters of the dredging department are also located at Natoma. The shipments of freight to and from Natoma are practically all for the account of the Natomas Consolidated, there being no stores or mercantile establishments in the town, and such shipments as may be forwarded or received other than those for the Natomas Consolidated are for the personal account of their employees.

The freight business of the Natomas Consolidated other than in the shipment of rock above referred to, consists of machinery, electrical appliances, hardware, iron and steel, and other material entering into the work of construction, maintenance and operation of the gold dredgers, and the outgoing shipments consist of supplies, machine repair parts, etc., together with shipments of scrap material which may accumulate as a result of the shop operation.

The shipments of freight received and forwarded at Natoma station, exclusive of rock shipments, are as follows:

| Year | Less than carload (tons) | | Number carloads | |
|------------|--------------------------|----------|-----------------|----------|
| | Forwarded | Received | Forwarded | Received |
| 1912 ----- | 439 | 5,170 | 47 | 295 |
| 1913 ----- | 424 | 3,909 | 89 | 206 |
| 1914 ----- | 305 | 2,084 | 83 | 74 |

It appeared from the testimony at the hearing that practically all the shipments arriving at Natoma, even in less than carload quantities, were switched to the tracks serving the Natomas Consolidated Company and were unloaded by the employees of that company. In like manner shipments made from Natoma were loaded into cars by the employees of the Natomas Consolidated and shipping receipts prepared for the signature of the Southern Pacific Company agent. In the case of shortage or damage to incoming freight the Natomas Consolidated has found it very convenient, to have an agent of the Southern Pacific Company on the ground who would note exceptions as to short or damaged consignments, and one of the principal objections of the protest-

ants was to the discontinuance of the agent for the reason that there would be no representative of the Southern Pacific Company immediately available to take note of any exceptions of this nature. The Southern Pacific Company stipulated that inasmuch as their agency station at Folsom was but one mile distant, that they would arrange whenever occasion required the inspection of freight for the account of the Southern Pacific Company, to at once send a representative from their Folsom agency upon receipt of telephone or other advice from the office of the Natomas Consolidated.

The passenger business at Natoma station shows a total of 1,816 tickets sold during the year 1914, producing a revenue of \$1,048.00, or an average of \$87.33 per month. It appears that the greater portion of the passenger business between Folsom, Natoma and Sacramento is being handled by automobiles for the reason that the automobile service is more frequent and gives the passengers access to the business portion of Sacramento. The Southern Pacific Company is operating three passenger trains daily in each direction and the one-way passenger fare, Sacramento to Natoma, is 65 cents. Testimony introduced at the hearing was that there were three companies engaged in the passenger automobile service between Sacramento and Folsom, all of which served Natoma, operating ten cars and making seventeen regular round trips per day, the automobile fare between Sacramento and Natoma being 50 cents. With the continuance of the automobile passenger service at the cheaper rate the local passenger business will undoubtedly continue with the automobile. The Natomas Consolidated objected to the closing of the agency station at Natoma on the ground that passengers would have no place of shelter in the summer or in stormy or inclement weather, and the Southern Pacific Company agreed that the station would be kept open for the convenience of passengers desiring to use the waiting room and that the waiting room would be kept in a proper condition for the use of their patrons by the track walker assigned to the district in which Natoma was located.

The protestants were of the opinion that the direct expense that would be caused them in the event of the granting of the application would be about one hundred dollars per annum. The expense of the salary of the agent, lights for station and other incidentals, amount to about \$90.00 per month or \$1,080.00 per annum.

In view of the very considerable reduction in the amount of freight forwarded from Natoma at the present time as against that handled in former years (caused principally by the cessation of the rock shipments) and the diversion of the passenger business to the automobiles operating a frequent service to and from Folsom, which also serve Natoma, and of the considerable expense to which the Southern Pacific Company was subjected in the maintenance of an agent at this point,

it was suggested to the protestants that the station be closed for a period of six months and at the expiration of such time the Natomas Consolidated would have acquired data as to any expense caused them by the absence of an agent at Natoma and also record of any inconvenience caused them in the conduct of their business as regards the shipment and receiving of freight.

The attorney for the protestants having agreed to the suggested closing of Natoma station for a period of six months on the conditions hereinbefore set forth, I am of the opinion that the application for the closing of Natoma station as an agency point should be granted under the terms and conditions agreed upon at the hearing by both the applicant and the protestants.

I recommend the following form of order:

ORDER.

The Southern Pacific Company, having made application for the abandonment of the agency station at Natoma on the Placerville branch of the Sacramento division, and a public hearing having been held, and the Commission being fully advised in the premises,

It is hereby ordered that the Southern Pacific Company be allowed to close its agency station at Natoma on the Placerville branch of its Sacramento division, subject to the following conditions, and not otherwise, viz:

(1) Provision is to be made by the applicant, Southern Pacific Company, for the keeping open and in a proper condition for the use of its patrons, its passenger waiting room for all regular passenger trains scheduled to depart from Natoma station; and

(2) Arrangements are to be made by the applicant, Southern Pacific Company, whereby any exceptions as to the condition of freight received by the Natomas Consolidated of California at Natoma as to shortage or damage and ordinarily requiring the inspection of an agent or representative of the Southern Pacific Company, shall be cared for by the applicant, Southern Pacific Company, immediately sending a representative from its agency station at Folsom upon the telephone or other request of the Natomas Consolidated of California, which representative shall be empowered to act on behalf of the said applicant, Southern Pacific Company, in the same manner that would be required of a regular agent were such maintained at the station of Natoma; and

(3) The closing of the agency station at Natoma is to be effective as of April 10, 1915, and to continue for a period of six months until October 10, 1915, and thereafter, under the terms and conditions of this order. unless the business transacted at said station of Natoma shall increase in a manner justifying the re-establishment of an agent by the applicant, or the representations of the Natomas Consolidated of California at the end of the six months period above stated shall

appear to the Commission that the reopening of Natoma as an agency station is necessary for public convenience.

(4) The Commission reserves the right to make such further order with respect to the abandonment of the agency station at Natoma, or to the manner of conducting the business while maintained as a non-agency, as to it may seem right and proper or in the interests of public convenience and necessity.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, this 31st day of March, 1915.

DECISION No. 2266.

EAST BAKERSFIELD IMPROVEMENT ASSOCIATION

vs.

BAKERSFIELD WATER COMPANY.

Case No. 713.

Decided March 31, 1915.

Complainant attacks the rates, rules and service of defendant company for water in the city of Bakersfield and petitions the Commission to establish a just schedule of rates and prescribe reasonable rules and regulations.

Held. That the poor service complained of is entirely due to the waste of water by consumers on this system. Defendant directed to meter his system. Rules and regulations and revised schedule of rates embodying a reduction of approximately 20 per cent, prescribed and ordered into effect within thirty days.

E. J. Emmons, for Complainant.

E. L. Foster, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

On the 27th day of February, 1914, the city of Bakersfield voted its jurisdiction over public utilities to this Commission.

The East Bakersfield Improvement Association filed a complaint on October 23, 1914, against the rates and practices of the Bakersfield Water Company.

Plaintiff is an association composed of over one hundred members who are supplied with water for domestic and irrigation purposes by the defendant company.

Defendant was incorporated on the 24th day of November, 1911, and is engaged as a public utility in furnishing water for domestic purposes to the inhabitants of that portion of the city of Bakersfield known as East Bakersfield.

Defendant acquired its water system in December, 1911, from the Sumner Water Company, which latter had operated for some thirty years and had allowed the system to badly deteriorate. Since acquiring the system, the present company has improved the system by installing larger and better mains. The source of supply of this system is wells located within the city of Bakersfield, and water is pumped directly into the distribution system and any surplus of pumped water over use goes into two 50,000 gallon tanks, which act as a safety valve to the system.

A public hearing was held in this case on March 2, 1915. Plaintiff alleges in effect:

- (1) Inadequate and deficient service.
- (2) That defendant arbitrarily raised the monthly rate.
- (3) Unjust and unreasonable rates.
- (4) Unreasonable rules and regulations.

I shall consider these complaints in turn.

(1) *Inadequate and deficient service.* This was investigated in considerable detail in testimony, and from the evidence I am of the opinion that the waste of water by consumers is the cause of the complaint. This system is practically unmetered, and unless a very rigid inspection system is maintained the waste of water will be large, and undoubtedly under this system the people have become careless and waste large quantities of water. Defendant contends that it is the duty of the consumers to conserve the water and the complainant contends that the company should enforce rules preventing waste, or that a measured service should be required, which would necessitate the installation of meters.

From data available of the results of metering in other cities and from a few specific instances on this system, I am of the opinion that the average consumption per capita would be reduced some 60 per cent and the maintenance and operation costs would be reduced.

In this case metering the entire system appears to be the logical method to improve service. I, therefore, recommend to the defendant that he install meters as expeditiously as his financial condition will admit.

(2) *That defendant arbitrarily raised the monthly rate.* Defendant admits that during August, 1914, it measured lawns and made a general survey of the extent of property upon which the monthly charges for water were made on the flat rate basis. This survey increased the average monthly bill per consumer some 12 per cent. Under the rates on file with this Commission, the defendant manifestly has the right to base the monthly charge for water on existent property and were within their rights in so doing. However, the basic principle

of charging for water by the flat rate method is unjust to both consumer and water company, and a method whereby the quantity used is measured is the only fair and equitable method for the sale of water.

(3) *The rate.* The present rates were fixed by the board of trustees of the city of Bakersfield in Ordinance No. 230 and became effective July 1, 1913.

At the hearing the Commission's engineering department submitted a valuation of this system, which shows a present value of \$81,901.00 and an annual depreciation of \$2,676.00. No other valuation was submitted and no exception was taken to any of the items of valuation submitted by the Commission's engineer. I find the aforementioned sums to be fair and reasonable sums upon which the defendant should receive a return in rates.

Considerable evidence was submitted in regard to the annual charge for maintenance and operation.

The books of the company show the following:

| | |
|---|-------------|
| Operating labor | \$3,575 00 |
| Fuel and power purchased | 6,524 00 |
| Pumping station supplies and expenses | 58 00 |
| Repairs to pumping station equipment | 396 00 |
| Repairs to source of supply | 246 00 |
| Distribution system, labor and expenses | 42 00 |
| Repairs to transmission and distribution system | 401 00 |
| Repairs to services | 237 00 |
| Repairs to building and equipment | 49 00 |
| Collection and promotion of business | 1,173 00 |
| General officers' and clerks' salaries | 3,480 00 |
| Legal expenses | 100 00 |
| Miscellaneous general expenses | 141 00 |
| Insurance | 157 00 |
| Taxes | 2,020 00 |
| Total maintenance and operation | \$18,590 00 |

I am of the opinion that the salaries paid for labor and the overhead charges are excessive for a plant of this size. The evidence shows a monthly pay roll of \$690.00, and that one man receiving a salary of \$200.00 per month and another receiving a salary of \$150.00 per month were employed in digging ditches for services, making small repairs and doing work that an ordinary day laborer could perform.

I can not express too strongly my disapproval of a public utility which claims it is not receiving an adequate return on investment and can not install needed improvements and yet pays excessive salaries to its officials.

After carefully considering the evidence, I find that \$15,490.00 is a fair and reasonable sum to be allowed annually for the expenses of maintenance and operation of this system.

The following is the annual revenue which defendant is entitled to earn:

| | |
|--|--------------------|
| Return on value of property----- | \$6,552 00 |
| Depreciation ----- | 2,676 00 |
| Operation and maintenance (including taxes)----- | 15,490 00 |
| Total ----- | \$24,718 00 |

The operating revenue for 1914 as shown by the books of the company is given in the following tabulation:

Operating Revenue—1914.

| | Flat rates | Meter rates | Totals |
|---------------------|--------------------|-----------------|--------------------|
| January ----- | \$2,201 00 | ----- | \$2,201 00 |
| February ----- | 2,188 00 | ----- | 2,188 00 |
| March ----- | 2,214 00 | ----- | 2,214 00 |
| April ----- | 2,339 00 | ----- | 2,339 00 |
| May ----- | 2,234 00 | ----- | 2,234 00 |
| June ----- | 2,276 00 | 75 00 | 2,351 00 |
| July ----- | 2,322 00 | 75 00 | 2,400 00 |
| August ----- | 2,308 00 | 78 00 | 2,386 00 |
| September ----- | 2,564 00 | 103 00 | 2,667 00 |
| October ----- | 2,424 00 | 120 00 | 2,544 00 |
| November ----- | 2,409 00 | 190 00 | 2,599 00 |
| December ----- | 2,213 00 | 194 00 | 2,407 00 |
| Totals ----- | \$27,692 00 | \$838 00 | \$28,530 00 |

The Southern Pacific Railroad is at present testing this company's water for use in their engines and if satisfactory will purchase water for its plant and rolling stock from this company. At present, there is no method of estimating the income that may be derived from this source.

A resurvey of the extent of property of the consumers was made in August and it was testified at the hearing by Mr. Fairfax Williams, secretary and treasurer of the Bakersfield Water Company, that the resurvey had increased the income approximately 12 per cent, and this percentage is the average increase per month as shown by the preceding tabulation. Applying this percentage, the total annual income under present rates will be \$30,727.00, and it seems fair to assume that the income for 1915 and subsequent thereto will under present rates at least equal this sum.

No charge is made at present to the city of Bakersfield for fire service. I believe that the city should bear its just and reasonable share of the expenses of this system, and although it is difficult in this case to accurately fix a rate which should be charged, I will recommend a rate such as has been fixed under similar conditions.

I am of the opinion that it is to the best interests of both complainant and defendant that this system be metered, and I recommend that

the company be required to install a meter at the demand of any consumer, but that the consumer be required to deposit with the water company the amount fixed in the rules and regulations attached hereto and that said amount be rebated to consumer in water bills. I will not, however, recommend that the defendant be required to meter the entire system at this time, but will recommend to the defendant that it proceed to install meters as expeditiously as its financial condition will admit.

The rates charged for water by the Bakersfield Water Company are some 30 per cent higher than the rates charged by the Kern County Canal and Water Company in the city of Bakersfield, and from the evidence set out in this opinion I will recommend that the existing flat rates of the defendant company be reduced 20 per cent.

I submit herewith the following form of order:

ORDER.

Complaint having been made by the East Bakersfield Improvement Association against the rates and practices of the Bakersfield Water Company, and a public hearing having been held, and the Commission being fully apprised in the premises,

It is hereby found as a fact by the Railroad Commission of the State of California that the rates and rules and regulations of the Bakersfield Water Company in so far as they differ from the rates and rules and regulations herein found reasonable, are unreasonable and unjust, and the rates, rules and regulations set out in Exhibit "A" attached hereto and made a part hereof, are hereby found to be just and reasonable rates and rules and regulations for the distribution of water by the Bakersfield Water Company to its consumers, and basing its order on the foregoing findings of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the State of California that the Bakersfield Water Company put into effect the rates, rules and regulations herein found to be reasonable and fully set out in Exhibit "A" attached hereto and made a part hereof, within thirty days from the date of this order.

It is further ordered that, in establishing the above mentioned rules and regulations, it is especially understood that the approval of the Commission of these rules and regulations is based upon the conditions surrounding this case, and is not to be considered as establishing any principle to be observed in other applications or cases.

It is further ordered that the above mentioned rules and regulations may be changed and amended from time to time by the Bakersfield Water Company, but that the approval of this Commission will have to be obtained before such amendments or changes shall become effective.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of March, 1915.

EXHIBIT "A."

Rules and Regulations Bakersfield Water Company.

Rule No. 1.—Before water is supplied to any premises, written application therefor, on blanks furnished by the company, must be made to the company by the person desiring water.

Rule No. 2.—Meters (if any) and services shall be installed to the curb line or property line of the applicant's premises at the company's expense. Domestic service connections shall consist of $\frac{3}{4}$ -inch pipe and a $\frac{3}{4}$ -inch meter. At the option of the company or request of the consumer, larger connections and meters may be installed, and if at the consumer's request, deposit may be required as provided in Rule 3.

Rule No. 3.—When an application is made by a consumer requiring the installation of a meter, a payment in advance will be required of the applicant and credited monthly on the books of the company at the rate of one twelfth of the amount deposited, to apply on water bills until all has been credited. Such deposits and credits shall be as follows:

| | Deposit. | Credit per month. |
|-----------------------------------|----------|-------------------|
| $\frac{3}{4}$ -inch meter ----- | \$12 00 | \$1 00 |
| $\frac{1}{2}$ -inch meter ----- | 15 00 | 1 25 |
| 1 -inch meter ----- | 21 00 | 1 75 |
| 1 $\frac{1}{2}$ -inch meter ----- | 36 00 | 3 00 |

Rule No. 4.—When a person desires that an extension be made, he shall make a written application to the company on blanks to be furnished by the company. For each actual dwelling place demanding service on a proposed extension the company will, at its own expense, provide 100 lineal feet of such extension. Until further notice, the company will ask in advance the following prices per foot of extension beyond the 100 feet: 2-inch, 20 cents; 2 $\frac{1}{2}$ -inch, 25 cents; 3-inch, 30 cents; 4-inch, 40 cents. Should the company desire, looking to the probable increase of business or the most practicable construction for the general system, to lay a main larger than necessary for the immediate demand, the difference in cost will be borne outright by the company. When one tenth of the gross receipts from water sales on the extension, averaged over four months, is sufficient to pay one half per cent per month interest on the cost of the extension, the deposit will be refunded.

Rule No. 5.—No allowance will be made in water rates by reason of non-occupation of the premises where the water is supplied unless the company has been notified to shut off the water from such premises.

Rule No. 6.—All water rates, except meter rates, are due and payable monthly in advance on the first of each month. In all cases of the non-payment of the water rate, notice may be given that the supply will be shut off, and five days after such notice has been given, if the bill has not been paid, the supply will be cut off and the water will not again be let on, except on the payment of the amount due, together with the sum of one dollar.

Where a meter is installed a deposit of \$5.00 may be required at the discretion of the company, before commencing service, as a guarantee of payment of bills. Deposit will bear interest at the rate of 5 per cent simple interest annually, and will be returned at the end of twelve months continuous service or at the discontinuance of service upon application of the consumer.

The deposit will be applied upon payments in arrears.

Rule No. 7.—No person shall obstruct the free and direct access by any officer, agent or employee of the company to any part of its water system or interfere with or obstruct any such officer, agent, or employee in the discharge of his duties.

Rule No. 8.—No person shall alter, remove or interfere with any structure or apparatus constituting a part of this company's system.

Rule No. 9.—No consumer shall provide water regularly to any person, company or corporation other than the occupant or occupants of the premises of said consumer, except where such parties can not reasonably be connected with the system of this company, nor shall any consumer knowingly permit leaks, waste of water or conditions to exist which may be detrimental to a meter or service connection.

Rule No. 10.—No one except a properly authorized agent of the company shall turn water on any property without a written permit, signed by the superintendent or other authorized officer of the company. Any plumber or other person connecting with service pipes may turn the water on at the cut-off cock to test the pipe, but in all cases must leave the water turned off. The water will then be turned on by an authorized agent of this company if application for same is made by the consumer at the office of this company.

Rule No. 11.—All consumers must keep service pipes, cocks and faucets in good order and free from leakage and must not allow any water to run to waste.

Rule No. 12.—The superintendent and other authorized employees of this company shall be admitted at all reasonable hours for inspection of all parts of the premises supplied with water without meters, to see that the regulations are being observed. All water users are expected to give accurate information regarding the purposes for which water is used.

Rule No. 13.—Any user of water who allows others to use water from his pipes will be responsible to this company for water so used and the amount thereof will become a part of his water bill.

Rule No. 14.—All flat rate services in use between the first and fifteenth of the month will pay the charge for the entire month though discontinued after the fifteenth. If water is turned on after the fifteenth day of the month, no charge will be made for the remaining part of the month. Where a meter is installed the regular meter charge will be made, including the minimum charge, for service between the first and fifteenth of the month. If service is commenced after the fifteenth, the meter reading of this period will be added to the reading for the succeeding month.

Rule No. 15.—Meters will be read monthly, as far as possible, on the last day of the month or the first day of the month following, and bills will be sent between the first day and fifth day of the month for the preceding month, by mail, postpaid, or by delivery to the residence or place of business. Meter bills will become delinquent on the fifth day of the month for the preceding month, and if not then paid the company will give written notice, and if the bill remains unpaid on the fifth day following such notice, may turn off the water and may not be required to recommence service until all arrearages are paid. Meter bills will contain this statement in bold-faced type.

Rule No. 16.—Upon deposit of \$1.00, by any consumer, the company will test his meter. The consumer or some competent person appointed by him may be present at such test, if he desires. If upon such examination and test the meter is found to register 3 per cent more than the amount of water actually passing through it, a correct meter will be substituted for it and the fee of \$1.00 will be repaid to the person making the application, and the water bill for the current period adjusted by an amount in proportion to the error discovered. If the meter shall be found accurate, or to register less than the actual amount of water passing through it, the fee of \$1.00 shall be retained by the company and the water bill paid as rendered.

Rule No. 17.—No water except when taken through meters shall be used for watering gardens, trees, lawns, flower beds, or plants, except between the hours of 5 a.m. and 11 a.m., and 1 p.m. and 5 p.m., and 6:30 p.m. and 10 p.m., and no standing sprinklers shall be used without written consent of the company.

Rule No. 18.—In all cases where the city intends to use water, excepting in case of fires and for street sprinkling, the city authorities shall give at least twenty-four hours' notice in writing of the place or places and time when the water will be used.

Rule No. 19.—Where two or more consumers are served from one service connection, the owner of the property will be held responsible for the entire bill unless he so changes the house piping that each consumer may be served independently of the others.

Rule No. 20.—For the violation of any of the aforesaid rules, the company reserves the right to turn off the water upon five days' written notice, and to collect \$1.00 after the matter has been adjusted and service reinstated.

RATES.

The following are the effective water rates:

| | |
|--|----------------|
| (1) For every tenement or dwelling house of five rooms or less, small stores and shops, per month..... | \$1.00 |
| (2) For every tenement or dwelling house over five rooms, for each additional room, per month..... | .08 |
| (3) For water-closets or bathtubs in private residences, per month..... | .12 |
| (4) For restaurants and eating houses, per month..... | \$2.40 to 6.00 |
| (5) For large stores and warehouses, per month..... | 2.60 to 3.25 |
| (6) For saloons, per month..... | 1.75 to 2.50 |
| (7) For rooms in second and third stories, occupied as offices, for each room with water, per month..... | .40 |
| (8) For photograph galleries, per month..... | 2.00 |
| (9) For public water-closets or urinals, where there is only one, per month... | .80 |
| (10) For each water beer pump, per month..... | .80 |
| (11) For public bathtubs used in bathing establishments, boarding houses and barber shops, per tub, per month..... | 1.00 |
| (12) For bakeries, per month..... | 2.00 |
| (13) For drug stores, per month..... | \$1.50 to 2.50 |
| (14) For blacksmith shops or wagon shops for the use of water for cooling tires, etc., per month..... | .80 |
| (15) For each additional forge or fire, per month..... | .40 |
| (16) For private stables for one horse and buggy, including water to wash same, per month..... | .20 |
| (17) For each additional horse or cow, per month..... | .12 |
| (18) For livery, board, feed, sales and hack stables, including water to wash vehicles, per month, per horse..... | .25 |
| (19) For school houses, for each pupil..... | .04 |
| (20) For steam engines not working over ten horsepower per day for each horsepower so used, per month..... | .40 |
| (21) For all steam engines working over ten horsepower per day for each horsepower, per month..... | .30 |
| (22) For barber shops, for each chair used, per month..... | .40 |
| (23) For fountains not to be used more than 6 hours per day, for 1/16 inch jet, per month..... | 1.60 |
| (24) For one-eighth inch jet, per month..... | 4.00 |
| (25) For one-fourth inch jet, per month..... | 8.00 |
| (26) For watering lawns and grounds, planted to shrubbery, including water for trees and shrubbery in front thereof, per fifty front foot, per month | .40 |
| (27) For the use of hose in front of stores and shops, for washing windows and sprinkling sidewalks, according to frontage..... | .20 to .40 |
| (28) For public water troughs for each trough, per month..... | .75 to 1.50 |
| (29) For public laundries, per month..... | 4.00 |
| (30) For meat markets, per month..... | 1.60 |
| (31) For public halls or lodge rooms, per month..... | 1.60 |
| (32) For the first five barrels of lime or cement (a) per barrel, 20 cents; (b) all over 5 barrels, per barrel..... | .12 |
| (33) For water used to mix mortar and dampen bricks, per thousand..... | .16 |
| (34) For municipal fire hydrants, per hydrant, per month..... | 1.50 |
| (35) For water used for municipal purposes, other than those named in the preceding rate, tank or meter measurement, per thousand gallons.... | .08 |

(36) Meter rates:

| | |
|--|-----------------------|
| Four thousand gallons or less..... | 25¢ per 1,000 gallons |
| Next 4,000 gallons | 20¢ per 1,000 gallons |
| Next 8,000 gallons | 15¢ per 1,000 gallons |
| Above 16,000 gallons..... | 8¢ per 1,000 gallons |
| Special contracts will be made subject to the approval of the Railroad Commission. | |

(37) Minimum monthly charge for each service connection..... \$1.00

DECISION No. 2267.

IN THE MATTER OF THE APPLICATION OF CITY OF BURLINGAME, SAN MATEO COUNTY, CALIFORNIA, FOR PERMISSION TO CONSTRUCT PALM DRIVE, A PUBLIC HIGHWAY, AT GRADE ACROSS THE TRACKS OF SOUTHERN PACIFIC COMPANY AND UNITED RAILROADS OF SAN FRANCISCO, AND THE RIGHT OF WAY OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, IN THE CITY OF BURLINGAME, SAN MATEO COUNTY, CALIFORNIA.

Application No. 1408.

Decided March 31, 1915.

City of Burlingame, desiring to construct Palm drive across the tracks of Southern Pacific Company and United Railroads, applies for the necessary authorization, and it appearing that such crossing would be extremely dangerous if not protected by an automatic flagman and by the removal of a row of trees, which actions the city is unwilling to comply with, application dismissed.

John F. Davis, city attorney, for Applicant.*George D. Squires*, for Southern Pacific Company.*W. R. Teague*, for The Pacific Telephone and Telegraph Company.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This application was filed with the Commission on November 10, 1914, and a public hearing was subsequently held at Burlingame. It appeared at this hearing that while the opening of the crossing would to a certain extent serve public necessity and convenience, it should not be made unless an automatic flagman was installed and unless a row of eucalyptus trees, which obscures the view, between the tracks of the two railroad companies was cut down and removed for some distance in both directions from the crossing. This distance in the opinion of both the engineer for the city and the engineer for the Commission, should not be less than 300 feet.

It was also suggested that there was a possibility of securing an overhead crossing further to the west at an expense not much greater than this grade crossing would be, and the application was submitted with the understanding that the city attorney would take up with the officials of the city the matter of paying for the installation of an

automatic flagman and removing the trees referred to and that the suggested overhead crossing would also be investigated, the Commission to be advised later as to the attitude of the city officials in regard to these matters. In accordance with this understanding the Commission was subsequently notified by the city attorney that the city did not care to assume the expense of installing an automatic flagman and removing the trees.

Since in my own judgment, which was confirmed by the testimony of the engineer for the city and our own engineer, it would be dangerous to permit this crossing to be opened without thus safeguarding it, I am constrained to recommend that this application be denied.

I recommend the following form of order:

ORDER.

City of Burlingame, a municipal corporation, having applied to the Commission for permission to construct Palm drive, a public highway, at grade across the tracks and right of way of Southern Pacific Company and United Railroads of San Francisco, and the right of way of The Pacific Telephone and Telegraph Company, in the city of Burlingame, San Mateo County, California, and a public hearing having been held, at which all interested parties were represented, and it appearing that this proposed grade crossing would be dangerous unless safeguarded under certain conditions, which conditions the city of Burlingame is not willing to accede to,

It is hereby ordered that this application be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of March, 1915.

DECISION No. 2268.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS OF SAN LUIS OBISPO COUNTY FOR PERMISSION TO CONSTRUCT CORBETT CANYON ROAD IN ROAD DISTRICT NUMBER SEVEN OF SAID COUNTY AT GRADE ACROSS THE TRACK OF PACIFIC COAST RAILWAY COMPANY IN SAN LUIS OBISPO COUNTY, CALIFORNIA.

Application No. 1504.

Decided March 31, 1915.

Applicant authorized to construct a crossing at grade across the tracks of the Pacific Coast Railway Company, provided that the county shall bear cost of such construction and cost of cattle-guards, etc., and also provided that a private road immediately adjacent to the proposed new crossing shall, if possible, be abandoned.

John Donovan and John F. Power, for Applicant.

J. M. Sims, for Pacific Coast Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This application was made, and the hearing was subsequently held, under section 2694 of the Political Code, as amended January 2, 1912, which requires that after viewers have been appointed to view a crossing which a county proposes to open, a certified copy of the petition requesting the opening of such crossing and of the order appointing viewers be submitted to the Commission and a hearing thereafter held, at which hearing the Commission shall hear the evidence and "determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation and maintenance, use and protection of said crossing."

The crossing which the board of supervisors of San Luis Obispo County desires to open across the track of the Pacific Coast Railway Company, and which is covered by this application, is a road known as the Corbett Canyon road. This road at present is on the north side of the railroad track and is located in the bottom of the Corbett Canyon Creek wash, where the floods and high waters of recent years have made it impassable during certain seasons of the year. The board of supervisors of the county has secured new right of way on higher ground on the south side of the track and desires to relocate the road on this new right of way, crossing the track twice, once on San Luis Obispo road at an existing crossing and again at this proposed crossing.

From inspection on the ground and from the testimony of witnesses at the hearing I am satisfied that it is essential that the Corbett Canyon road should be relocated, and that the crossing at the point applied for should be made. The representative of the railway company took the attitude that the crossing was needed and offered no objection to the application being granted.

There are no obstructions to the view at any of the four corners of the intersection of the proposed road and the railroad; train service is infrequent and no protection is needed at this time other than the usual crossing sign.

With the abandonment of the road on the north side of the track it will be necessary for the railway company to fence the right of way on that side of the track, and the representative of the company stated that this would be done. With the construction of this fence it will also be necessary to construct cattle-guards for the crossing, and in accordance with the verbal agreement between the representatives of the county and the railway company, I will recommend that the expense of the construction of these cattle-guards be borne by applicant.

Immediately east of this proposed crossing is a private crossing to reach the property of Mrs. J. Brown. It is so close to the proposed new crossing that when this latter crossing is opened I believe that this private crossing should be abandoned and replaced by a short road from the new Corbett Canyon road to serve the convenience of Mrs. Brown. If, however, Mrs. Brown does not desire to have it closed, and there is a right of way agreement which requires it to be kept open, I believe a gate should be placed on the north side of the crossing and that this gate should be kept closed.

I recommend the following form of order:

ORDER.

Board of supervisors, San Luis Obispo County, California, having on January 19, 1915, filed with the Commission an application for permission to construct Corbett Canyon road, in Road District No. 7 of said county, at grade across the track of Pacific Coast Railway Company, in San Luis Obispo County, California, and a public hearing having been held at which all interested parties were represented, and it appearing that the desired crossing is necessary, and that this application should be granted,

It is hereby ordered that this application be and the same is hereby granted subject to the following conditions, viz:

(1) This crossing shall be constructed of a width not less than eighteen (18) feet, with grades of approach not exceeding six (6) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(2) The entire expense of constructing the crossing, together with the necessary wing fences and cattle-guards shall be borne by applicant.

(3) The cost of maintaining the crossing thereafter in good and first class condition for the safe and convenient use of the public shall be borne by applicant up to two (2) feet of the rails of Pacific Coast Railway Company. The cost of maintaining this crossing between the rails and to two (2) feet outside thereof shall be borne by Pacific Coast Railway Company.

(4) The present private crossing immediately east of this proposed crossing shall, if possible, be closed and abandoned. If this is not done the Pacific Coast Railway Company shall install a gate along its right of way on the north side of this private crossing and this gate shall be kept closed.

(5) The Commission reserves the right to make such further orders relative to the location, construction, maintenance and protection of

said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of March, 1915.

DECISION No. 2269.

IN THE MATTER OF THE APPLICATION OF COAST VALLEYS GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE ONE HUNDRED THOUSAND DOLLARS OF BONDS.

Application No. 1418.

Decided March 31, 1915.

Applicant herein applied for and was granted permission to issue \$100,000.00 face value of 6 per cent bonds for the purposes of retiring certain notes and for additions and betterments and it subsequently appearing that there is a question as to applicant's liability as guarantor of principal and interest of bonds of the Monterey and Pacific Grove Railway, which latter company defaulted its bond interest payments the first of this year, accordingly, after review of applicant's financial transactions with the railway company, previous authorization vacated with the exception of \$10,000.00 face value of bonds authorized for certain necessary additions. Such vacating order made without prejudice to a renewal of such application after applicant shall have established, through the courts or otherwise, its financial liability as regards the railway company's bonds.

Warren Gregory, of Chickering & Gregory, for Applicant.

Carter P. Pomeroy, for certain bondholders of Monterey and Pacific Grove Railway Company.

R. H. Cross, for certain bondholders of Monterey and Pacific Grove Railway Company.

H. H. Ashley, of Pillsbury, Madison & Sutro, for H. L. E. Meyer.

W. F. Williamson, for certain bondholders of Monterey and Pacific Grove Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

On December 4, 1914, in Decision No. 1985, this Commission authorized Coast Valleys Gas and Electric Company, hereinafter called the Coast Valleys Company, to issue \$100,000.00 of its first mortgage 6 per cent forty-year bonds under its trust indenture to Mercantile Trust Company of San Francisco, dated March 1, 1912. The order specified

that the bonds should be sold at not less than 95 per cent of their face value and that the proceeds should be used for the following purposes:

(a) To extinguish the following notes payable—

| Name | Date | Interest | Amount |
|--|---------------|----------|-------------|
| California Railway and Power Company..... | July 1, 1913 | 7% | *\$5,900 00 |
| California Railway and Power Company..... | July 1, 1913 | 7% | 10,000 00 |
| California Railway and Power Company..... | July 1, 1913 | 7% | 10,000 00 |
| Sierra and San Francisco Power Company..... | July 31, 1913 | 7% | 7,251 34 |
| Sierra and San Francisco Power Company..... | July 31, 1913 | 7% | 3,726 21 |
| Sierra and San Francisco Power Company..... | July 31, 1913 | 7% | 7,666 95 |
| Sierra and San Francisco Power Company..... | July 31, 1913 | 7% | 7,352 24 |
| Total | | | \$51,896 74 |
| (b) To apply upon accounts payable incurred for additions and betterments | | | 17,495 69 |
| (c) For feeders, extensions and service lines in the vicinity of King City to serve prospective consumers..... | | | 10,000 00 |
| (d) For other additions and betterments..... | | | 20,607 57 |

*Balance.

Thereafter there came to the attention of this Commission a possible additional liability against the Coast Valleys Company, which had not been presented for consideration at the hearing. This possible liability was concerned with a guarantee which had been given upon the bonds of the Monterey and Pacific Grove Railway—hereinafter called the railway company—a railway property five and one-half miles in length extending from Del Monte to Pacific Grove and from the city of Monterey to the Presidio at Monterey, the stock of which is owned by the Coast Valleys Company.

It further came to the attention of the Commission that on January 1, 1915, default was made in the payment of interest upon the bonds of the railway company. Thereupon on January 13, 1915, this Commission issued its order suspending until further notice its previous order, which had authorized the Coast Valleys Company to issue the \$100,000.00 of bonds. The matter was set down for further hearing. A hearing was held on February 8, 1915, and a subsequent hearing on February 18, 1915. At these hearings, the Commission directed its inquiry to determine the relationship between the Coast Valleys Company and the outstanding bonds of the railway company. Representatives of various bondholders of the railway company were present and participated in the investigation.

The Commission conducted on its own account an audit of the books of the railway company, and through its engineering department had a valuation made of the railway company's properties. The matter has been submitted and is now ready for decision.

The applicant has not issued any of the \$100,000.00 of bonds authorized by the Commission in its Decision No. 1985. The Commission is

therefore to determine at this time whether it will vacate in whole or in part its order of January 13, 1915, suspending its previous order authorizing the issue of the \$100,000.00 of bonds.

The investigation necessitated a very wide range of inquiry, but it will suffice for the purposes of the present situation to summarize the facts developed.

The Coast Valleys Company conducts a water, gas and electric utility business in Monterey County, operating in Salinas, Monterey, Pacific Grove, King City and other localities in Monterey County. It has an outstanding issue of \$900,000.00 of bonds. It has estimated the value of its properties as high as \$1,600,000.00. The engineers of this Commission have submitted evidence tending to establish a value of not less than \$1,100,000.00, but substantially less than \$1,600,000.00.

For the year ending December 31, 1914, Coast Valleys Gas and Electric Company submitted the following statement of earnings and expenses:

| | |
|--|--------------|
| <i>Electric operations—</i> | |
| Operating revenues ----- | \$179,663 28 |
| Operating expenses ----- | 97,299 16 |
| Net operating revenue ----- | \$82,364 12 |
| <i>Gas operations—</i> | |
| Operating revenue ----- | \$45,561 05 |
| Operating expenses ----- | 40,568 87 |
| Net operating revenue ----- | 4,992 18 |
| <i>Water operations—</i> | |
| Operating revenue ----- | \$21,322 71 |
| Operating expenses ----- | 20,561 79 |
| Net operating revenue ----- | 760 92 |
| Total net operating revenue ----- | \$88,117 22 |
| Rents from buildings, land and apparatus ----- | 937 50 |
| Interest revenues on funded debt owned ----- | \$4,365 00 |
| Miscellaneous interest revenues ----- | 2,320 02 |
| Total interest and dividend revenues ----- | 6,685 02 |
| Gross corporate income ----- | \$95,739 74 |
| Deduct— | |
| Uncollectible bills ----- | \$1,021 12 |
| Rent expenses ----- | 2 78 |
| Miscellaneous non-operating expenses ----- | 166 65 |
| Interest accrued on funded debt ----- | 54,000 00 |
| Other interest deductions ----- | 5,021 76 |
| Amortization of debt discount and expense ----- | 1,505 92 |
| Total miscellaneous deductions ----- | 61,718 23 |
| Balance of year carried to corporate surplus ----- | \$34,021 51 |

The Coast Valleys Company was organized on March 18, 1912. The properties which it acquired had previously been owned by Monterey County Gas and Electric Company. These properties were sold by Monterey County Gas and Electric Company in 1911 to F. G. Baum, and by Mr. Baum transferred to California Consolidated Light and Power Company. Thence they passed to L. H. Rich and from Mr. Rich to Coast Valleys Gas and Electric Company.

At the time of the transfer of these properties to Mr. F. G. Baum, Monterey County Gas and Electric Company owned the stock of the railway company. Previous thereto, on July 1, 1907, the railway company had authorized an issue of \$300,000.00 of its thirty year 6 per cent bonds. These bonds were guaranteed at the time as to principal and interest by Monterey County Gas and Electric Company, and a statement of this guarantee appears on the face of the bonds of the railway company in language as follows:

"For value received, Monterey County Gas and Electric Company, a corporation, agrees, to and with the holder of this bond and the attached coupons, that if the several sums of money agreed to be paid thereby are not paid in the manner therein stated, as they severally become due, then and in that event the Monterey County Gas and Electric Company aforesaid will pay the same.

This contract is duly authorized by a resolution of the board of directors of the Monterey County Gas and Electric Company.

MONTEREY COUNTY GAS AND ELECTRIC COMPANY."

At the hearings held on February 8 and 18, 1915, to determine the relationship of the Coast Valleys Company to these bonds of the railway, counsel for the Coast Valleys Company maintained that the guarantee had not passed to the Coast Valleys Company. Counsel took the position that the guarantee of the bonds of the railway company had been assumed by one of the parties in ownership which had intervened between Monterey County Gas and Electric Company and the Coast Valleys Company, or had not passed from the original guarantor.

It is, of course, beyond the powers of this Commission to adjudicate the issue of liability arising from the guarantee of the bonds of the railway company. It is within the province of this Commission, however, and it is its duty to make full inquiry into any matter that may affect the financial condition of a public utility, or which may have a bearing upon its securities. In this instance, the securities of two public utilities are involved—those of the Coast Valleys Gas and Electric Company, and of the Monterey and Pacific Grove Railway Company. While it will not be my purpose, therefore, to attempt to determine the liability under this guarantee, I shall review such facts as may be pertinent to this Commission's authority.

Monterey and Pacific Grove Railway Company was organized on June 2, 1893, under the name of the Monterey and Pacific Grove Street

Railway and Electric Power Company. The present name was conferred upon the railway by court decree on August 24, 1903.

On June 25, 1902, its stock passed into the ownership of Monterey County Gas and Electric Company. On July 1, 1907, the board of directors of the railway company authorized a bond issue in the sum of \$300,000.00 to consist of 6 per cent bonds dated July 1, 1907, and maturing July 1, 1937. The bonds were issued under a mortgage and deed of trust to Mercantile Trust Company of San Francisco. The railway company has an authorized issue of 10,000 shares of stock of the par value of \$30.00 per share, all of which, with the exception of qualifying directors' shares, were owned by Monterey County Gas and Electric Company at the time it transferred these properties.

Soon after the deed of trust was executed, the directors of the railway company voted to turn over \$150,000.00 face value of the railway company bonds to Monterey County Gas and Electric Company. The records show that in December, 1907, the railway company was indebted to Monterey County Gas and Electric Company in the sum of \$40,976.95 for moneys advanced. Apparently, it was the intention that the Monterey County Gas and Electric Company should from the sale of the railway company bonds reimburse itself for moneys advanced, and should thereafter turn the proceeds from the bond sales into the treasury of the railway company. The sale of the railway company bonds by Monterey County Gas and Electric Company began in October, 1907, and continued until June, 1910, during which time \$198,000.00 face value of the railway company bonds were sold, realizing in cash \$177,930.00, or approximately 90 per cent of face value. In this way, the railway company became the creditor of the Monterey County Gas and Electric Company, and in September, 1908, the Monterey County Gas and Electric Company had become indebted to the railway company in the sum of \$51,283.53. Subsequent bond sales brought the account as of June 30, 1911, to \$126,093.16. On or about June 30, 1911, this item of \$126,093.16, representing an account receivable of the railway company, was written off the books, and the investigation made and the evidence submitted have failed to show the consideration, if any, that led to the cancellation of this indebtedness. The amount was charged to the plant account of the railway company.

The books of the Monterey County Gas and Electric Company show that the corresponding liability to the railway company was also written off at that time and no consideration is shown in the records. In the case of Monterey County Gas and Electric Company, the amount was credited to profit and loss account. From the investigation made and from the evidence submitted in this matter, I have been unable to find that the railway company received anything in exchange for its can-

cellation of the indebtedness due it by the Monterey County Gas and Electric Company in the sum of \$126,093.16.

Up to the time of the bond issue, the railway company had been gradually increasing its earning power, but with the increasing fixed charges, its surplus earnings suffered a large decrease.

The books of the railway company show the sale of only the \$198,000.00 of bonds heretofore referred to out of the total issue of \$300,000.00.

With the sale of the other properties formerly owned by Monterey County Gas and Electric Company through the various channels heretofore enumerated, the stock of the railway company passed into the possession, on March 18, 1912, of the Coast Valleys Company.

Mr. F. J. Blanchard, secretary, treasurer and auditor of the railway company, testified that he assumed charge of the books of the railway company in March, 1912. At that time, it is stated, the books showed bonds outstanding amounting to \$198,000.00 and bonds in the treasury amounting to \$102,000.00. Mr. Blanchard testified that he later learned that \$90,000.00 of the railway company bonds were attached to certain notes of the Monterey County Gas and Electric Company and the California Consolidated Light and Power Company, presumably having been used as collateral security for the notes of these corporations. He found \$12,000.00 of bonds on hand in the treasury of the railway company. When the notes of the Monterey County Gas and Electric Company and the California Consolidated Light and Power Company were satisfied, the \$90,000.00 of railway company bonds were placed in the treasury of the Coast Valleys Company. In September, 1912, to adjust his books to this condition, Mr. Blanchard made an entry crediting bonds in the treasury in the sum of \$90,000.00 and charging this amount to plant. No evidence has been submitted, nor has the investigation revealed anything in the minutes to indicate under what authority the Monterey County Gas and Electric Company and California Consolidated Light and Power Company had possession of the railway company bonds, nor under what authority they made use of them for their own purposes.

Mr. Blanchard was asked if he had looked up the records to determine whether the Monterey and Pacific Grove Railway Company received anything from the Monterey County Gas and Electric Company and California Consolidated Gas and Electric Company for the \$90,000.00 of bonds. He replied, "I have searched the minute books to find some authority for issuing them and I have been unable to find it." (Transcript, page 69.)

This transaction increased the amount of bonds outstanding, as shown by the books of the railway company, from \$198,000.00 to \$288,000.00.

Thereafter, the Coast Valleys Company turned into the sinking fund of the railway company \$18,000.00 of bonds, leaving the amount outstanding \$270,000.00; \$198,000.00 being in the hands of the public and \$72,000.00 free treasury securities of the Coast Valleys Company.

In connection with this transaction, the annual report to this Commission of the railway company dated June 30, 1912, contains a letter signed by Mr. Blanchard, in which occurs the following language:

"It is not the intention of the Coast Valleys Gas and Electric Company to collect interest on the \$90,000 of bonds, unless the interest should be earned by the railway company, and for this reason no interest is being accrued upon the books of the railway company or of the Coast Valleys Company, covering these bonds."

It appears that the interest was not collected on these bonds by the Coast Valleys Company until June, 1913, and thereafter, as interest payments on these bonds fell due, the Coast Valleys Company took the note of the railway company for the amount of the interest. It also appears that sinking fund requirements of the railway company were met by the Coast Valleys Company, which turned over to the railway company bonds and accepted the railway company's note in payment.

It appears further that the Coast Valleys Company regularly advanced money to the railway company to enable it to meet the interest on its bonds outstanding in the hands of the public. For such advances, the Coast Valleys Company accepted the railway company's note. This continued until January, 1915, when the interest was defaulted by the railway company.

In this proceeding, it is necessary to consider the relationship of the Coast Valleys Company to the bonds of the railway company in two aspects: *First*—there is the matter of the guarantee; and, *second*—there is the relationship of the Coast Valleys Company by reason of its ownership of the stock of the railway company.

It appears, as hereinbefore indicated, that the Coast Valleys Company advanced necessary moneys to the railway company up to January, 1915, the total of such advances amounting to \$36,530.00. These evidences of the company's relationship to these bonds may be explained on either one of the two bases of guarantee or stock ownership.

As to the company's own belief of its responsibility in this matter, we have the present statement that it does not regard itself obligated under the guarantee, and we have the opening entry on the books of the Coast Valleys Company under date of March 20, 1912. This opening entry in the journal on page one is as follows:

"The company agreed to pay certain liabilities of California Consolidated Light and Power Company and Monterey County Gas and Electric Company, and assume the contingent liability of a certain guarantee dated July 15, 1907. Min. 135 by Monterey

County Gas and Electric Company of the principal and interest of the first mortgage 6 per cent bonds of the Monterey and Pacific Grove Railway Company, authorized issue \$300,000, amount outstanding \$198,000. This company owns unencumbered, the \$300,000 par value outstanding stock of the Monterey and Pacific Grove Railway Company.

"Opening entry includes in assets the interest of company in M. & P. G. Ry. Co. by including it in \$5,698,472.33 property account."

Mr. Blanchard testified that this opening entry was made upon instructions from the New York offices of the Sierra and San Francisco Power Company, which controlled the stock of the Coast Valleys Company.

The railway company submitted the following statement of its assets and liabilities covering the calendar years 1913 and 1914:

| | December 31, 1914 | December 31, 1913 | Increase or decrease |
|---|----------------------|----------------------|-------------------------|
| <i>Assets.</i> | | | |
| Property | \$612,420 25 | \$612,420 25 | |
| Cash | 1,939 97 | 803 11 | \$1,136 86 |
| Accounts receivable | 156 67 | 139 83 | 16 84 |
| Material and supplies | 1,567 88 | 1,564 98 | 2 90 |
| Prepaid insurance | 105 29 | 120 83 | —15 54 |
| Items in suspense | 2,713 76 | | 2,713 76 |
| Mercantile Trust Company, coupon de- posit | 60 00 | 8,400 00 | —8,340 00 |
| Profit and loss | 18,609 21 | 6,708 09 | 11,901 12 |
| | \$637,573 03 | \$630,157 09 | \$7,415 94 |
| <i>Liabilities.</i> | | | |
| Capital stock | \$300,000 00 | \$300,000 00 | |
| Bonds | 270,000 00 | 279,000 00 | —\$9,000 00 |
| Notes payable | 36,530 00 | 22,030 00 | 14,500 00 |
| Accounts payable | 3,967 35 | 1,917 07 | 2,050 28 |
| Pay rolls payable | 1,389 45 | 1,298 25 | 91 20 |
| Coast Valleys Gas and Electric Company Bond interest accrued | 16,120 40 | 16,120 40 | |
| Taxes accrued | 1,360 83 | 1,391 37 | —30 54 |
| Bond interest matured | 8,205 00 | 8,400 00 | —195 00 |
| | \$637,573 03 | \$630,157 09 | \$7,415 94 |

| | |
|--------------------------------------|------------|
| Net decrease in asset accounts | \$7,198 94 |
| Deferred expenses paid | 2,713 76 |

| | |
|-----------------------------------|------------|
| Net increase in liabilities | \$4,485 18 |
| | 7,415 94 |

| | |
|-------------|-------------|
| Total | \$11,901 12 |
|-------------|-------------|

| | |
|--------------------|-------------|
| Loss in 1914 | \$11,901 12 |
|--------------------|-------------|

The railway company also submitted the following statement of earnings and expenses for the calendar years 1912, 1913 and 1914:

| | 1914 | 1913 | Increase or decrease | Per cent | 1912 |
|--|-------------|-------------|----------------------|----------|-------------|
| Gross earnings ----- | \$36,091 05 | \$42,562 71 | —\$6,471 66 | —15.20 | \$43,710 86 |
| Operating expenses ----- | 27,104 16 | 25,868 96 | 1,235 20 | 4.78 | 29,534 61 |
| Taxes ----- | 2,432 29 | 2,662 70 | —230 41 | — 8.62 | 1,654 69 |
| Total operating expenses and taxes ----- | \$29,536 45 | \$28,531 66 | \$1,004 79 | 3.50 | \$31,189 30 |
| Net earnings ----- | 6,554 60 | 14,031 05 | —7,476 45 | —53.28 | 12,521 56 |
| <i>Deductions from income.</i> | | | | | |
| Interest on bonds ----- | \$16,245 00 | \$16,785 00 | —\$540 00 | — 3.22 | \$17,280 00 |
| Interest on floating debt .. | 2,240 98 | 1,235 59 | 1,005 39 | 81.35 | 200 05 |
| Total deductions from income ----- | \$18,485 98 | \$18,020 59 | \$465 39 | 2.58 | \$17,480 05 |
| Deficit ----- | —11,931 38 | —3,989 54 | —7,941 84 | 198.90 | —4,958 49 |

The decrease in revenue during 1914, was explained upon the basis of the competition from the automobile bus service.

It would appear from these statements, however, that during 1912 and 1913, the company earned the interest on the bonds in the hands of the public, amounting to \$198,000.00. For the calendar year 1914, however, the company apparently failed to earn its interest on this amount of bonds.

The applicant in this case submitted an appraisal of the railroad properties made by Ford, Bacon and Davis in June, 1912, placing the value of the properties of the railway company at \$220,483.27. Of this amount, \$53,381.00 was ascribed to intangibles, leaving as the value of the physical property \$167,102.27. A tentative valuation made by the engineering department of this Commission estimated the reproduction cost of the physical properties to be \$145,929.46 and the depreciated reproduction cost to be \$113,167.53.

In connection with the inquiry into the railway properties, it developed that this railway is now operating under two franchises, one granted by the city of Monterey on December 16, 1912, for a period of fifty years, and one granted by the city of Pacific Grove on December 16, 1912, for a period of fifty years.

These franchises have not been submitted to this Commission and this railway company, therefore, has not obtained a certificate of public convenience and necessity granting it authority to operate under these franchises. It will be necessary, of course, that application be at once made to this Commission, so that this matter may be properly and regularly determined.

In view of the facts as herein developed, I believe that the Coast Valleys Company should not be authorized by this Commission to in-

crease its bonded indebtedness in any way that could be prejudicial to the rights which the holders of the outstanding bonds of Monterey and Pacific Grove Railway Company may have. If the parties to this matter can adjust their differences as to the responsibility of the Coast Valleys Company for these bonds, either by friendly adjudication or through a recourse to the proper tribunal, the Coast Valleys Company may thereafter submit again to this Commission its application for the issue of its securities. As this Commission has been advised that an effort will be made to determine the issue of the liability either through general agreement or through recourse to the courts, I do not believe this Commission should at this time authorize the applicant to issue any more securities than would appear to be necessary at this time, or until the question of the liability has been determined.

While I believe this Commission should not authorize securities to be issued by the Coast Valleys Company in a way that would injure such rights as the railway company bondholders may have, I am nevertheless of the opinion that it would be more injurious to these railway company bondholders to deny the Coast Valleys Company the right to issue a limited amount of securities if it were apparent that the earnings therefrom would swell the income of the Coast Valleys Company in such a way as to place it in a stronger position financially to meet any liability which it may have on the railway company bonds.

Here we have a situation where this Coast Valleys Company proposes to issue \$100,000.00 of bonds. As to \$70,000.00 of these bonds, it may be that they would produce no increased earnings. Of the remaining \$30,000.00, \$20,000.00 are to be issued for unspecified additions and betterments and are, therefore, not urgent at this time. There remains, however, \$10,000.00 of bonds, which it is proposed to issue for feeders, extensions and service lines in the vicinity of King City to serve prospective consumers.

At the original hearing in this matter, the applicant submitted a statement that it would be able to sell an additional 700 horsepower when it had constructed the new feeders and service lines now requested for the vicinity of King City. This power is to be used for agricultural pumping purposes.

If the applicant be authorized to issue these bonds, it will increase its fixed charges by approximately \$625.00 per year. At the same time, it may be that through the expenditure of this amount it will increase its earnings by several times \$625.00 per year. In addition, there are many prospective patrons in the vicinity of King City who are entitled to this service, and if it can be obtained for them without injury to these bondholders, I certainly believe this company should be authorized to issue the \$10,000.00 of bonds necessary to provide for these extensions to serve these persons.

I am unwilling, however, to recommend that the applicant be authorized to issue any of the remaining \$90,000.00 of bonds until it shall have determined the degree of its liability on the \$198,000.00 of railway bonds. Accordingly, I recommend the following order:

ORDER.

This Commission on December 4, 1914, in the above entitled matter having authorized Coast Valleys Gas and Electric Company to issue \$100,000.00 of bonds on the conditions therein specified, and this Commission on January 13, 1915, having suspended said order until further notice, and a further hearing having been held on the application herein,

It is hereby ordered that Coast Valleys Gas and Electric Company be granted authority, and it is hereby granted authority, to issue \$10,000.00 of its first mortgage 6 per cent forty-year bonds under its trust indenture to Mercantile Trust Company of San Francisco, dated March 1, 1912.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The bonds herein authorized to be sold shall be sold at not less than 95 per cent of the face value thereof, less accrued interest thereon.

(2) The proceeds derived from the sale of said bonds shall be used for feeders, extensions and service lines in the vicinity of King City to serve prospective consumers with electric power.

(3) Coast Valleys Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

(5) The authority herein granted shall apply to such bonds as shall have been issued on or before March 15, 1916.

It is further ordered that the order herein shall supersede all former orders made upon the application herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of March, 1915.

DECISION No. 2270.

MARIN ROCK COMPANY

vs.

MARIN WATER AND POWER COMPANY.

Case No. 775.

Decided April 1, 1915.

Complainant alleges that defendant company exacts a charge for service connections and also that certain moneys advanced to defendant by complainant which were to be applied to water bills was applied instead to two temporary service connections, and it appearing that defendant several months ago voluntarily discontinued charging for service connections and so notified complainant in writing and that the service connections charged for were temporary only and for the convenience of complainant, and that the company should not be required to install a temporary connection from which it will only receive short return, complaint dismissed.

Frank J. Burke, for Complainant.

Joseph Haber, Jr., for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

The complaint herein is made on two grounds: First, that defendant company refuses to make a service connection with the premises of plaintiff unless there be paid therefor the sum of \$15.00 in addition to the sum of \$4.00 for a meter and 75 cents for key to the meter.

It appears that defendant company at one time insisted upon such payments before making a service connection, but upon the advice of the Railroad Commission it has ceased making such charges and has offered to make the service connection with the property of plaintiff free of cost.

The evidence shows that plaintiff was notified in writing of the willingness of defendant to make this service connection free of cost upon the signing of the usual agreement to abide by the rules, which is exacted of all consumers. For some reason which was not made clear at the hearing, plaintiff has failed to take advantage of this offer. Inasmuch as plaintiff can get a service connection at any time free of cost, no action need be taken on this part of the complaint.

The second cause of complaint is that plaintiff paid defendant certain sums of money with the understanding that all of such money should be applied to the payment of water, but that defendant has applied certain portions of said money to the cost of making taps and service connections to supply plaintiff.

The evidence shows clearly that two temporary service connections have been made to serve plaintiff with water and defendant admits

that a portion of the money paid to it by plaintiff was applied on the cost of making these service connections.

It is admitted that these service connections were temporary and will be abandoned in a few months, and I fail to see any reason whatever for compelling the company to make the necessary expenditure to put in temporary service connections and stand the loss thereof when the use of water through them is discontinued.

Some attempt was made to establish an oral agreement that all of the money deposited by plaintiff with defendant should be applied to the payment for water to be used, but there was a sharp conflict in the evidence on this point, and I am compelled to hold that no such contract has been shown to exist.

I recommend, therefore, that the complaint be dismissed.

ORDER.

Complaint having been made by *Marin Rock Company (a corporation)*, vs. *Marin Water and Power Company (a corporation)*, and a public hearing having been had and it appearing to the Commission for the reasons set out in the foregoing opinion that this complaint should be dismissed,

It is hereby ordered by the Railroad Commission of the State of California that the complaint herein be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of April, 1915.

DECISION No. 2271.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AN ORDER AUTHORIZING THE PLEDGING OF GOLD NOTES AND FOR PAYMENT OF INDEBTEDNESS.

Application No. 1598.

Decided April 1, 1915.

Applicant authorized to issue its 7 per cent promissory note in the sum of \$40,000.00 for the purpose of renewing a note in a like amount, and to pledge \$60,000.00 face value of its three year gold notes as security therefor, using the bonds heretofore pledged as security for note to be renewed as additional security for gold notes, and to use \$150,000.00 proceeds from its gold notes heretofore authorized to discharge certain notes and accounts payable as listed with previous application.

Mountford S. Wilson, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is an application by Southern Counties Gas Company of California for authority as follows:

(1) To issue a note in the sum of \$40,600.00 to Central Trust Company of Illinois to refund a note in the sum of \$40,000.00.

(2) To pledge as security for said note of \$40,600.00 to Central Trust Company of Illinois the applicant's three year gold notes of the face value of \$60,000.00.

(3) To pledge \$48,000.00 of its first mortgage thirty year bonds as collateral security under applicant's trust indenture to Central Trust Company of Illinois and William T. Abbott, dated April 1, 1914.

(4) To apply the proceeds of \$210,000.00 of applicant's three year 6 per cent gold notes heretofore authorized by this Commission upon applicant's notes payable in the sum of \$183,072.80 and upon applicant's accounts payable as listed with this Commission in the sum of \$40,363.54.

This Commission has heretofore authorized the applicant to issue \$240,500.00 of its three year gold notes and specified the purposes to which the proceeds should be applied. Applicant has now made arrangements to sell a large portion of these notes and desires to modify in some respects the purposes for which the proceeds shall be used.

Applicant has previously issued a note to Central Trust company of Illinois in the sum of \$40,000.00 and this note is secured by \$48,000.00 of applicant's first mortgage bonds. It is proposed to refund this note of \$40,000.00 with a new note of \$40,600.00 and to issue as collateral for this note, \$60,000.00 of applicant's three year gold notes. As this proposal is merely to refund existing indebtedness and to change the collateral, I shall recommend that the applicant be granted authority to issue a new note, but that the new note, if issued for more than a year, be for a sum not to exceed \$40,000.00.

I believe also that applicant should be authorized to pledge \$60,000.00 of its three year 6 per cent notes as collateral security for the \$40,000.00 note to Central Trust Company of Illinois.

This will leave \$48,000.00 of bonds in applicant's treasury, and it is now proposed to pledge these bonds as further security for the three year gold notes. I believe this authority should be granted as offering further security for the issue of gold notes. This arrangement is one of the conditions upon which applicant will be able to sell its gold notes.

Southern Counties Gas Company has paid certain notes and accounts which were outstanding when the original order was made authorizing it to sell the \$240,500.00 of three year gold notes. It was authorized at that time to issue certain notes for purposes of reimbursement, the order originally authorizing the issue of the three year gold notes,

finding that the company had expended certain amounts for capital account from income. As the expenditures have not been made under that order, the applicant states that certain of its notes, apparently issued for operating expenses, were so issued only after its money from income had been expended for capital purposes. It asks again for authority to reimburse its treasury for such expenditures.

For the calendar year 1914 the applicant submitted the following statement of earnings:

| | |
|---|--------------|
| Operating revenue ----- | \$217,375 73 |
| Operating expense ----- | 161,236 23 |
| <hr/> | |
| Net operating revenue ----- | \$56,139 50 |
| Miscellaneous additions ----- | 540 79 |
| <hr/> | |
| Gross corporate income ----- | \$56,680 29 |
| Interest and other deductions ----- | 45,221 50 |
| <hr/> | |
| Balance ----- | \$11,458 79 |
| Amortization of debt discount and expense ----- | 6,609 63 |
| <hr/> | |
| Surplus ----- | \$4,849 16 |

For January and February, 1915, Southern Counties Gas Company reported net operating revenue of \$8,479.86, as compared with net operating revenue for the same period of 1914 of \$5,169.38.

Southern Counties Gas Company is now serving natural gas over a large portion of its territory and has made general reductions in its rates. It is in process of readjustment from an artificial gas basis to a natural gas basis.

Basing my conclusions on the facts as above stated, I recommend that the application be granted and submit the following form of order:

ORDER.

Southern Counties Gas Company, having applied to this Commission as outlined in the foregoing opinion, and a hearing having been held, and it appearing that the purposes for which the applicant herein proposes to issue the bonds and notes herein requested are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Southern Counties Gas Company be granted authority and it is hereby granted authority to issue a promissory note to Central Trust Company of Illinois of the face value of \$40,000.00 with interest not to exceed 7 per cent per annum; said note to mature not later than three years from date.

It is further ordered that Southern Counties Gas Company be granted authority and it is hereby granted authority to pledge as collateral security for a note of \$40,000.00 to be issued to Central Trust Company of Illinois, its three year 6 per cent gold notes of the face value of \$60,000.00, said \$60,000.00 of gold notes to be so pledged in substitu-

tion for \$48,000.00 of applicant's first mortgage bonds now pledged as collateral security for a note of applicant to Central Trust Company of Illinois in the sum of \$40,000.00.

It is further ordered that Southern Counties Gas Company be granted authority and it is hereby granted authority to pledge \$48,000.00 of its first mortgage bonds (being the \$48,000.00 of bonds now pledged as collateral security for applicant's note of \$40,000.00 to Central Trust Company of Illinois) as security under applicant's trust indenture to Central Trust Company of Illinois and William T. Abbott, trustees, dated April 1, 1914; said indenture having been executed to secure applicant's issue of three year 6 per cent notes.

It is further ordered that Southern Counties Gas Company be granted authority and it is hereby granted authority to use the proceeds from the sale of \$150,000.00 of its three year 6 per cent gold notes heretofore authorized to be issued, for the purpose of paying notes and accounts payable on file with this Commission in connection with the application herein and marked Exhibit "A" and Exhibit "B," respectively, in so far as the money derived from the sale of said \$150,000.00 of 6 per cent gold notes may apply.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The note of \$40,000.00 hereby authorized to be issued to Central Trust Company shall be used to refund a note in like amount heretofore issued by the applicant to Central Trust Company of Illinois.

(2) The authority herein granted to pledge the \$60,000.00 of three year 6 per cent notes as collateral security for a note of \$40,000.00 to be issued to Central Trust Company of Illinois shall be applicable to such \$60,000.00 of three year 6 per cent notes as shall be a part of the \$240,500.00 of applicant's three year 6 per cent gold notes heretofore authorized to be issued.

(3) The \$48,000.00 of applicant's first mortgage bonds herein authorized to be pledged shall not be sold by the applicant nor otherwise pledged by the applicant nor otherwise disposed of by the applicant without an order from this Commission.

(4) Southern Counties Gas Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the notes hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said notes during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

(6) The notes herein authorized to be sold shall be sold so as to net the applicant not less than 93 per cent of their face value plus the accrued interest thereon.

(7) The authority herein granted shall apply to such notes as shall have been issued on or before April 1, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of April, 1915.

DECISION No. 2272.

ANGEL FERRASCI ET AL.
vs.
EMPIRE WATER COMPANY.

Case No. 494.

Decided April 1, 1915.

REPORT OF THE COMMISSION.

ORDER DENYING PETITION FOR REHEARING.

Complainants in the above entitled proceeding having filed a petition asking for a rehearing, and careful consideration having been given to said petition, and no just ground appearing why a rehearing should be held,

It is hereby ordered that said petition be and the same is hereby denied.

Dated at San Francisco, California, this 1st day of April, 1915.

DECISION No. 2273.

IN THE MATTER OF THE APPLICATION OF LAGUNITAS DEVELOPMENT COMPANY TO SELL, AND OF SAN GERONIMO VALLEY WATER COMPANY TO BUY, A CERTAIN WATER SYSTEM, LOCATED IN MARIN COUNTY, CALIFORNIA.

Application No. 1551.

Decided April 1, 1915.

Lagunitas Development Company, owning and operating a small water company, applies for permission to sell such water system to the San Geronimo Valley Water Company in exchange for such an amount of stock of the latter named

company as the Commission may deem proper. San Geronimo Company authorized to issue 27,820 shares of its capital stock of the par value of \$1.00 per share in exchange for the water properties of the Lagunitas Development Company.

T. F. Draper, of Wilson & Wilson, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, Commissioner.

This is an application of Lagunitas Development Company for permission to sell its water system in Marin County to the San Geronimo Valley Water Company, for such an amount of stock of the latter company as the Commission may deem proper. For a more particular description of the property to be transferred reference is hereby made to Exhibit "A," filed in connection with the company's application.

The Lagunitas Development Company was incorporated April 22, 1913, and is engaged in buying and selling land on the San Geronimo Rancho, in Marin County. In connection with its real estate business it has operated a small water utility system. The purpose of the present application is to separate the development company's public utility business from its other activities.

The Lagunitas Development Company acquired its property from the Mailliard estate for the sum of two hundred twenty thousand (220,000) dollars, the transfer being authorized by the Commission in Decision No. 658, rendered on the 8th day of May, 1913.

At the present time there is a mortgage of one hundred sixty thousand five hundred twenty-five (160,525) dollars on the development company's property, but it was stated at the hearing that the water utility property will be released from the lien of this mortgage and transferred free from indebtedness.

The San Geronimo Valley Water Company was organized on December 17, 1914. It has an authorized capitalization of fifty thousand (50,000) dollars, divided into fifty thousand (50,000) shares of stock of the par value of one (1) dollar each. At the present time there is no stock outstanding, and the company has issued no bonds or other evidences of indebtedness.

An estimate made by the Commission's engineers places the reproduction cost of the property to be transferred at twenty-nine thousand four hundred eight (29,408) dollars, and the present value at twenty-seven thousand eight hundred twenty (27,820) dollars. This is considerably less than the company's estimate, filed in connection with the application herein, but the company stated at the hearing that it had no objection to accepting the Commission's figures as a basis for the issuance of stock.

In view of the evidence presented, I am of the opinion that the Lagunitas Development Company should be permitted to transfer its

water utility properties (more particularly described in the order herein) to the San Geronimo Valley Water Company, and that the San Geronimo Valley Water Company should be permitted to issue in exchange therefor an amount of stock not in excess of twenty-seven thousand eight hundred twenty (27,820) shares of the par value of one (1) dollar per share.

I recommend the following order:

ORDER.

Lagunitas Development Company, having applied for permission to sell and transfer its water utility system to the San Geronimo Valley Water Company for such an amount of stock of the latter company as the Commission may deem proper, and it appearing that the public interest will be best served by permitting this transfer,

It is hereby ordered that Lagunitas Development Company be, and it is hereby, granted permission to transfer to San Geronimo Valley Water Company its water utility properties, more particularly described as follows:

(1) Reservoirs, tanks, wells, springs, rights of way, rights of access to property, ditches, flumes, machinery, pumps, pipe, fittings, stock on hand, tools, equipment and other water utility property (not including real estate) installed or owned by Lagunitas Development Company prior to September 12, 1913.

(2) Reservoirs, tanks, wells, springs, rights of way, rights of access to property, ditches, flumes, machinery, pumps, pipe, fittings, stock on hand, tools, equipment and other water utility property (not including real estate) installed or owned subsequent to September 12, 1913.

(3) Real estate used as reservoir sites, etc., detailed description of which follows:

Of the Woodacre Division—

Laurel avenue lot.

Azalea slope lot.

Spring lot.

Portion of lot No. 1, block No. 18.

Of the San Geronimo Division—

Reservoir site.

Of the Lagunitas Division—

Reservoir site, lot 114a, subdivision 4.

Spring lot, subdivision 2.

Spring lot, subdivision 3, southerly portion lot 75.

LAUREL AVENUE LOT.

Beginning at a point on the southerly line of Laurel avenue, which point bears south 35° 02' east two hundred twenty-two and eighty-two hundredths feet (222.82') from the most southerly corner of lot number seven (7) in block number twenty-nine (29) as designated and delineated upon a map entitled "Map Number Three of Woodacre, a subdivision of a portion of San Geronimo

Rancho, Marin County, California," which map was recorded in the office of the county recorder of said Marin County on the 3d day of December, 1913, in map book 4, page 63, thence running south $14^{\circ} 09'$ east one hundred forty-one and forty-two hundredths feet (141.42'); thence running south $2^{\circ} 08'$ east one hundred and forty-four hundredths feet (100.44'); thence running south $2^{\circ} 42'$ west eighty-seven and twenty-three hundredths feet (87.23'); thence running south $33^{\circ} 54'$ west one hundred twenty-one and sixty-four hundredths feet (121.64'); thence running south $62^{\circ} 33'$ east one hundred thirty-seven and five tenths feet (137.5'); thence running south $47^{\circ} 24'$ east ninety-seven and five tenths feet (97.5'); thence running south $47^{\circ} 01'$ east one hundred twenty-four and five tenths feet (124.5'); thence running south $88^{\circ} 41'$ east thirty-five and one tenth feet (35.1'); thence running north $49^{\circ} 44'$ east forty-one and seventy-seven hundredths feet (41.77'); thence running north $21^{\circ} 18'$ west eighty-seven and two hundredths feet (87.02'); thence running north $16^{\circ} 31'$ west seventy-nine and thirty-three hundredths feet (79.33'); thence running north $12^{\circ} 51'$ west one hundred twenty-eight and fifty-seven hundredths feet (128.57'); thence running north $31^{\circ} 40'$ west one hundred thirty-six and fourteen hundredths feet (136.14'); thence running north $21^{\circ} 53'$ west seventy-six and fifty-three hundredths feet (76.53'); thence running north $9^{\circ} 25'$ east seventy-nine and seventy-seven hundredths feet (79.77'); thence running north $37^{\circ} 27'$ west one hundred twenty-two and fifty-seven hundredths feet (122.57') to the south line of Laurel avenue; thence running along the southerly line of said Laurel avenue south $56^{\circ} 58'$ west seventy-one (71) feet to the point of beginning and containing two and two tenths (2.2) acres, more or less.

AZALEA SLOPE LOT.

Beginning at a point which bears south $20^{\circ} 22'$ east ten hundred eighty and seven hundredths feet (1080.07') from the most southerly point of lot number eighteen (18), block number thirty-three (33) as designated upon a map entitled "Map Number Four of Woodacre, a subdivision of a portion of San Geronimo Rancho, Marin County, Cal.," which map was recorded in the office of the county recorder of said Marin County on the 6th day of May, 1914, in map book 4, page 68, thence running south $60^{\circ} 37'$ east one hundred forty-five and nine tenths feet (145.9'); thence running south $14^{\circ} 27'$ west one hundred fifteen and eight hundredths feet (115.08'); thence running south $70^{\circ} 01'$ west one hundred five and ninety-five hundredths feet (105.95'); thence running north $68^{\circ} 21'$ west eighty-seven and twenty hundredths feet (87.20'); thence running north $57^{\circ} 20'$ west eighty and eighty hundredths feet (80.80'); thence running north $2^{\circ} 45'$ east ninety and sixty-two hundredths feet (90.62'); thence running north $34^{\circ} 06'$ east eighty and one hundredth feet (80.01'); thence running south $82^{\circ} 13'$ east one hundred three and fifty hundredths feet (103.50') to the point of beginning and containing one and six hundredths (1.06) acres, more or less.

SPRING LOT NUMBER THREE, WOODACRE.

Beginning at a point which bears south $24^{\circ} 00'$ west twelve hundred eighty-two and twelve hundredths feet (1282.12') from the most southerly point of lot eighteen (18), block number thirty-three (33), as designated and delineated upon a map entitled "Map Number Four of Woodacre, a subdivision of a portion of San Geronimo Rancho, Marin County, California," which map was recorded in the office of the county recorder of said Marin County on the 6th day of May, 1914, in map book 4, page 68, thence running south $38^{\circ} 55'$ east sixty-two and twenty-four hundredths feet (62.24'); thence running south $47^{\circ} 41'$ west ninety-five and twenty-one hundredths feet (95.21'); thence running north $45^{\circ} 19'$ west ninety-two and ninety hundredths feet (92.90'); thence running north $41^{\circ} 35'$ east ninety-five and sixteen hundredths feet (95.16'); thence running south $57^{\circ} 58'$ east forty-two and fourteen hundredths feet (42.14') to the point of beginning, and containing two tenths of an acre (.2), more or less.

SOUTHERLY ONE HALF OF LOT ONE, BLOCK EIGHTEEN, WOODACRE, CALIFORNIA.

The southerly one half of lot number one (1) in block number eighteen (18) as designated and delineated upon a map entitled "Map Number Three of Woodacre, a subdivision of a portion of San Geronimo Rancho, Marin County, California," which map was recorded in the office of the county recorder of said Marin County on the 3d day of December, 1913, in map book 4, page 63.

RESERVOIR SITE AT SAN GERONIMO.

Beginning at the intersection of the westerly line of Sylvestris drive with the southerly line of a lane running along the southerly boundary of lot number thirty (30) as designated and delineated upon a map entitled "Map of San Geronimo, a subdivision of a portion of San Geronimo Rancho, Marin County, California," which map was recorded in the office of the county recorder of said Marin County on the 14th day of October, 1913, in map book 4, page 57, said point of intersection bearing south $4^{\circ} 03'$ ten and five hundredths feet (10.05') west from the southeast corner of the above mentioned lot number thirty (30); thence running along the line of Sylvestris drive thirteen (13) courses as follows:

South $4^{\circ} 03'$ west sixty-five and thirty-seven hundredths feet (65.37'), south $13^{\circ} 57'$ east eighty-four (84.00') feet, south $4^{\circ} 03'$ west sixty and eight tenths feet (60.8'), south $2^{\circ} 03'$ west one hundred twenty-four and eight tenths feet (124.8'), south $00^{\circ} 57'$ east sixty-one and six hundredths feet (61.06'), south $28^{\circ} 57'$ east forty-three and six tenths feet (43.6'), south $37^{\circ} 03'$ west twelve and seventy-six hundredths feet (12.76'), north $72^{\circ} 57'$ west twenty-one and twelve hundredths feet (21.12') north $55^{\circ} 57'$ west thirty and five tenths feet (30.5'), north $74^{\circ} 57'$ west thirty-nine and six tenths feet (39.6'), north $3^{\circ} 57'$ west one hundred four and ninety-five hundredths feet (104.95'), north $37^{\circ} 57'$ west ninety-four and seventy-two hundredths feet (94.72'), north $44^{\circ} 57'$ west fifty-nine and sixty-four hundredths feet (59.64').

Thence leaving the northerly line of Sylvestris drive and running north $5^{\circ} 27'$ west two hundred six and twelve hundredths feet

(206.12') to the southerly line of the above mentioned lane; thence running along the southerly line of said land south $68^{\circ} 25'$ east sixty-two feet (62') and north $88^{\circ} 36'$ east one hundred thirty-two feet (132') to the point of beginning.

LOT ONE HUNDRED FOURTEEN *a*, SUBDIVISION NUMBER FOUR, LAGUNITAS.

Lot number one hundred fourteen *a* (114*a*) as designated and delineated upon a map entitled "Map of the Lagunitas Tract, Subdivision Number 4, a subdivision of a portion of San Geronimo Rancho, Marin County, California," which map was recorded in the office of the county recorder of said Marin County on the 7th day of August, 1907, in map book 2, page 95.

"SPRING LOT," SUBDIVISION NUMBER TWO, LAGUNITAS.

The lot designated as "Spring Lot" as delineated upon a map entitled "Map of the Lagunitas Tract, Subdivision Number Two, a subdivision of a portion of San Geronimo Rancho, Marin County, California," which map was recorded in the office of the county recorder of said Marin County on the 13th day of December, 1904, in map book 2, page 13.

SOUTHERLY PORTION OF LOT NUMBER SEVENTY-FIVE, SUBDIVISION NUMBER THREE, LAGUNITAS.

Beginning at the point of intersection of the east line of a road with the north boundary line of lot number seventy-six (76) and the south boundary line of lot number seventy-five (75) as said lots are designated and delineated upon a map entitled "Map of Lagunitas Tract, Subdivision Number Three, a subdivision of a portion of San Geronimo Rancho, Marin County, California," which map was recorded in the office of the county recorder of said Marin County on the 28th day of June, 1905, in map book 2, page 26; thence running along the east line of said road north $11^{\circ} 36'$ east twenty-four and two tenths feet (24.2'); thence leaving the said east line of said road and running south $68^{\circ} 46'$ east one hundred eighty-eight and eight tenths (188.8) feet; thence running south $80^{\circ} 20'$ west eighty-four (84) feet; thence running north $59^{\circ} 10'$ west one hundred fourteen and one tenth feet (114.1') to the point of beginning.

It is further ordered that the San Geronimo Valley Water Company be and it is hereby authorized to issue and deliver in exchange for said property twenty-seven thousand eight hundred twenty (27,820) shares of stock of the par value of one dollar (\$1.00) per share.

The foregoing order is made upon the following conditions:

(1) The price to be paid for said property shall not hereafter be binding before this Commission, or any other public body as representing, for rate fixing or other purposes, the true present value of the property.

(2) The property herein authorized to be transferred to the San Geronimo Valley Water Company shall be transferred free from any and all incumbrance.

(3) The property transferred shall be accepted by the San Geronimo Valley Water Company subject to all legal claims for water which might have been in force against the Lagunitas Development Company.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of April, 1915.

DECISION No. 2274.

IN THE MATTER OF THE APPLICATION OF G. WARREN, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF CAMBRIA TELEPHONE COMPANY, FOR PERMISSION TO SELL AND TRANSFER A CERTAIN TELEPHONE SYSTEM LOCATED AT CAMBRIA, SAN LUIS OBISPO COUNTY, CALIFORNIA, AND OF A. F. PATERSON TO PURCHASE AND OPERATE THE SAID SYSTEM.

Application No. 1544.

IN THE MATTER OF THE APPLICATION OF A. F. PATERSON, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF CAMBRIA TELEPHONE COMPANY, FOR PERMISSION TO SELL AND TRANSFER A CERTAIN TELEPHONE SYSTEM LOCATED AT CAMBRIA, SAN LUIS OBISPO COUNTY, CALIFORNIA, AND OF MRS. J. GUERRA TO PURCHASE AND OPERATE THE SAID SYSTEM.

Application No. 1503.

Decided April 3, 1915.

Applicants herein having several times transferred the telephone system known as the Cambria Telephone Company without having first obtained the necessary authorization now apply for such permission, and it appearing that public convenience will not be subserved by denying same, application granted.

A. F. Paterson, in propria persona.

Albert Nelson, for Mrs. J. Guerra.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

The above entitled applications were separately filed with the Railroad Commission to cover two separate sales and transfers of a small telephone system which is being operated as a public utility in the town of Cambria, San Luis Obispo County, and vicinity under the name of Cambria Telephone Company.

The first transfer was made on or about October 1, 1913, by G. Warren, the original owner, to A. F. Paterson, for the sum of \$1,600.00 and on or about January 1, 1914, A. F. Paterson resold the system for \$1,850.00 to Mrs. J. Guerra, who is the present owner. Both of these transfers were made in violation of the provisions of

section 51(a) of the Public Utilities Act requiring an order of the Commission permitting the sale by public utility companies of property devoted to the public use. The two applications were heard jointly and will be considered jointly in this opinion and in the order following.

The original transfer was made principally for the reason that Mr. Warren's time, which was occupied in the management of certain ranches which he owns, did not permit of devoting the attention to the operation of the telephone system which its successful operation requires. Mr. Patterson, to whom he sold the system, is engaged in the hardware business in Cambria, and by reason of this fact was of the opinion that he would be better able to look after the conduct of the telephone business. Unforeseen operating difficulties soon developed, resulting in the subsequent sale and transfer to Mrs. Guerra. It appears doubtful to the Commission whether the present ownership and management will bring about any material improvement in the service of this public utility, but the efficiency of its service is not in question in the proceedings now before the Commission, and since both of these transfers were apparently made in good faith, it does not appear that the public interest would be subserved by denying the applications.

An actual inventory of the property of the Cambria Telephone Company has not been made by either the former or present owners, and the Commission is without definite information as to the extent or value of the system. At the time of the original transfer from Warren to Paterson, it was estimated, according to testimony of witnesses, that the property consisted of approximately 100 miles of wire, 66 telephones, 40-4" by 6"-16' sawed pine poles, a considerable number of 16-foot splices nailed to fences, and a small central office switchboard. Since this transfer was made, Mr. Paterson has repaired portions of the lines and has added approximately four miles of wire and seven telephones to the system. In the absence of more dependable data, the Commission obviously can not intelligently pass upon a valuation of this property, but it is apparent that a total valuation representing an investment per telephone not exceeding \$20.00 to \$25.00, as shown by the amounts for which the system was sold, is not of sufficient importance to justify serious objection, and I am willing to recommend that these applications be granted.

ORDER.

Application having been made by G. Warren, doing business under the firm name and style of Cambria Telephone Company, a public utility, for permission to sell and transfer, and by A. F. Paterson to purchase and operate a certain telephone system located at Cambria, San Luis Obispo County, California, and by A. F. Paterson to sell and

transfer, and by Mrs. J. Guerra to purchase and operate the said same system, and a joint hearing having been held, and it appearing to the Commission as set forth in the preceding opinion that these applications should be granted.

It is hereby ordered that the applications herein be and they are hereby granted; provided, that the amounts paid for the sales and transfers of the property of the Cambria Telephone Company, as shown in the preceding opinion, are not to be taken by this Commission or other body as a basis for rate making or other purposes; and provided further, that this permission is not to be taken as approval of the rates of Cambria Telephone Company, since the Commission has not passed upon their reasonableness.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of April, 1915.

DECISION No. 2275.

DONALD S. GITTINGS ET AL.

vs.

THE WINDSOR WATER COMPANY AND OTTO PACHMAYR.

Case No. 689.

Decided April 3, 1915.

Complainants herein being a number of consumers of defendant water company attack the service of defendant, alleging that they receive water through a two-inch pipe, such pipe being entirely inadequate to render efficient service, and accordingly petition the Commission to compel the installation of larger mains. Defendant's contention that it is not a public utility on the ground that it serves water through contract with various real estate concerns to furnish water to lots within prescribed tracts of land, overruled, and defendant directed, within sixty days, to replace two-inch pipe with four-inch pipe.

Donald S. Gittings, in propria persona.

W. A. Martin, for Defendants.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

On October 1, 1914, Donald S. Gittings et al., consumers, filed a complaint with this Commission against the Windsor Water Company.

The complainants allege that the Windsor Water Company is engaged in the business of supplying water for domestic purposes in a district including the Goodfellow tract outside of and adjoining the south city limits of Los Angeles; that the complainants reside in the

said Goodfellow tract; that for a period of some nine days in September, 1914, during purported repairs to a pump, the company was unable to furnish adequate pressure or supply of water on the said tract. It was alleged that inadequacy is due to the fact that the tract receives its water supply through a 2-inch pipe, and that the company had refused to increase the size of the said 2-inch main and advised the consumers to refer to the concerns who subdivided and sold the tract.

The complainants ask that this Commission make an order compelling the Windsor Water Company to furnish at all times a sufficient and adequate supply of water for domestic and lawn and garden irrigation purposes, and that a rate be fixed to apply to the said tract.

The answer of the defendant in part denies that the Windsor Water Company comes under the Public Utilities Act but that the water company was installed and has since been operated by virtue of a contract with certain tract owners in the county of Los Angeles, under which defendant agreed to supply water to each and every lot in these tracts upon lot owners paying to defendant a monthly charge not exceeding the rates prevailing in Los Angeles; admits that during a period of some nine days in September, 1914, less water than usual was available due to the breakdown of one pump, but denies that there was then an insufficiency of water for domestic purposes. It was denied that defendant refused to increase the size of 2-inch main in this tract and claimed that some 2-inch is now being replaced by 4-inch pipe. A public hearing was held on March 2d, at Los Angeles, and a field investigation conducted by a Commission engineer.

It was established that the water supply is sufficient at the source to provide adequately for these complainants as well as all other consumers of this utility. The defendants have a 52,700-gallon tank which they claim is always kept full for emergencies. This, however, does not mean that the service will always be satisfactory.

In regard to the rates of the company, it was determined that the complaint was not so drawn as to permit this Commission to change the rates now in effect. It was explained that the contracts between the tract owners and the water company provided that the rates should not exceed those charged by the city of Los Angeles, and it is claimed that the rates charged by this company result in payments for equivalent amounts of water, 15 per cent to 25 per cent less than charged by the city of Los Angeles.

According to the testimony in this case, the service provided in the Goodfellow tract during the summer months, especially in 1914, was inadequate, this inadequacy of supply being due, apparently, both to the amount of water available and to the fact that some forty consumers

receive their supply through two 2-inch pipes. There was also considerable complaint that $\frac{1}{2}$ -inch pipe has been used in a number of service lines instead of $\frac{3}{4}$ -inch pipe that is customary and that the smaller services will not allow the use of a sufficient supply for lawn and garden purposes.

The defendant company, in rebuttal, claim that the deficiency of supply has been caused largely by waste of water by consumers. This, however, is a matter that can be controlled through the ordinary course of establishment and enforcement of rules and regulations, in which the Commission is always ready to assist utilities.

I submit herewith the following form of order:

ORDER.

A hearing having been held in the above entitled matter, and the same having been submitted and the Commission being fully apprised in the premises,

It is hereby found as a fact by the Railroad Commission of the State of California that the Windsor Water Company is a public utility under the laws of the State of California, engaged in the sale of water for domestic and other purposes.

It is further found as a fact that the water distributing system and water supply of this utility are, to a certain extent, inadequate, and basing its order on the foregoing findings of fact and the further findings of fact set forth in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the State of California that the Windsor Water Company replace its 2-inch main now in service on Moneta avenue with 4-inch pipe, and that it replace at least 300 feet of 2-inch pipe lines now in service on each of Morrell, Manor and Barabee streets with 4-inch pipe.

It is further ordered that the Commission be notified by report, semi-monthly, of the progress of this work and that the entire order be carried out within sixty days of the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of April, 1915.

DECISION No. 2276.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY, SOUTHERN PACIFIC RAILROAD COMPANY AND SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY FOR PERMISSION TO REMOVE CERTAIN LIMITATIONS WITH REFERENCE TO LOCAL PASSENGER TRAFFIC THERETOFORE IMPOSED UNDER TRACKAGE AGREEMENT, DATED JUNE 18, 1903.

Application No. 1557.

Decided April 3, 1915.

Salt Lake Railroad Company, at present operating its trains over a stretch of track between San Bernardino and Riverside Junction, owned by the Southern Pacific Railroad Company, under an agreement which provides that it shall not carry passengers whose trips originate and terminate upon this particular trackage, applies jointly with Southern Pacific Railroad Company and Southern Pacific Company for permission to amend such agreement providing for the elimination of this particular clause, and it appearing that the public will benefit by improved service thereby, application granted.

Guy V. Shoup, for Applicants.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application of Southern Pacific Company, Southern Pacific Railroad Company and San Pedro, Los Angeles and Salt Lake Railroad Company for permission to remove certain limitations with reference to local passenger traffic heretofore imposed under a trackage agreement dated June 18, 1903. A public hearing was held at San Francisco on March 30, 1915, at which time all interested parties were represented.

The Southern Pacific Railroad Company is the owner of the line of railroad extending in part from Riverside in Riverside County through the town of Colton to San Bernardino in San Bernardino County. The Southern Pacific Company is operating as lessee of the said Southern Pacific Railroad Company the line of railroad as above described. The San Pedro, Los Angeles and Salt Lake Railroad Company is engaged in operating its trains between San Bernardino and Riverside Junction over the above mentioned line of the Southern Pacific Railroad Company in accordance with an agreement dated June 18, 1903, between said Southern Pacific Railroad Company, Southern Pacific Company and San Pedro, Los Angeles and Salt Lake Railroad Company, under which the said latter company was granted, for a term of forty-nine years from October 1, 1903, subject to the termination as provided in said agreement, certain trackage rights on said line of railroad between San Bernardino and Riverside Junction as specified in said agreement.

It is provided in section 4 of article II of the aforesaid agreement that the said San Pedro, Los Angeles and Salt Lake Railroad Company "is not to engage in traffic whose origin and destination are both on the joint line, but is free to handle any traffic whereof either the origin or destination is on the joint line."

The Southern Pacific Railroad Company and Southern Pacific Company now desire to grant to San Pedro, Los Angeles and Salt Lake Railroad Company the right to transport, in its passenger train cars operated over the above mentioned railroad tracks between Riverside Junction and San Bernardino, passengers and their baggage, the origin and destination of which passengers are both on said line and the said applicants have, under date October 21, 1914, entered into an agreement, which agreement forms a part of this application and which sets forth in lieu of section 4 of article II of the agreement dated June 18, 1903, hereinabove referred to, the following conditions as to the handling of passenger traffic on the line between Riverside Junction and San Bernardino:

(1) San Pedro, Los Angeles and Salt Lake Railroad Company may and will transport in its passenger train cars operated by it over tracks of Southern Pacific Railroad Company and Southern Pacific Company between Riverside Junction and San Bernardino passengers and their baggage, the origin and destination of which passengers are both on the said joint line.

(2) The rates of fare to be charged and collected by San Pedro, Los Angeles and Salt Lake Railroad Company shall be submitted to and shall be subject to written approval by the Southern Pacific Company; San Pedro, Los Angeles and Salt Lake Railroad Company will perform no such transportation at rates less or lower than those so approved by Southern Pacific Company unless compelled by lawful authority so to do.

(3) San Pedro, Los Angeles and Salt Lake Railroad shall be entitled to retain in its treasury all moneys collected for the performance of such transportation.

(4) The right granted by Southern Pacific Railroad Company and Southern Pacific Company and accepted by San Pedro, Los Angeles and Salt Lake Railroad Company shall be subject to termination by Southern Pacific Railroad Company and Southern Pacific Company or either of them upon sixty days notice in writing to San Pedro, Los Angeles and Salt Lake Railroad Company.

(5) This agreement shall take effect as of the 23d day of January, 1914, and shall continue in full force and effect during the life of said agreement dated June 18, 1903, or until terminated as hereinbefore provided.

(6) This agreement shall inure to the benefit of and bind the successors and assigns of the parties hereto, but shall not be assigned in whole or in part by San Pedro, Los Angeles and Salt Lake Railroad except with the previous written consent of Southern Pacific Railroad Company and Southern Pacific Company.

Due to the competition of the electric interurban line of the Pacific Electric Railway Company (a Southern Pacific subsidiary) between San Bernardino and Riverside, the Southern Pacific Company has reduced its passenger service to one mixed train in each direction daily, the passenger trains of the San Pedro, Los Angeles and Salt Lake Railroad Company serving by seven trains in each direction the passenger business desiring steam train accommodation between San Bernardino and Riverside over the line owned by the Southern Pacific Railroad and formerly operated by the Southern Pacific Company. The restriction imposed by section 4 of article II of the agreement dated June 18, 1903, prohibited the carriage of passengers between any stations that might be located between the terminal stations of San Bernardino or Riverside Junction, although permitting delivery of passengers at the terminals above mentioned originating at intermediate stations and in like manner permitting origin of passengers at the terminals above mentioned when destined to intermediate stations. The granting of this application would relieve the embargo that has heretofore existed against the handling of passengers by the San Pedro, Los Angeles and Salt Lake Railroad Company between intermediate stations in the district between San Bernardino and Riverside Junction, and would affect the stations of Chicago and Iowa avenues, Riverside; Orange Center, Highgrove, Grand Terrace, Colton and Urbana.

In view of the fact that the convenience of the traveling public will be facilitated by the removal of the restrictions heretofore imposed by the condition expressed in section 4 of article II of the agreement dated June 18, 1903, I am of the opinion that this application should be granted.

I therefore recommend the following form of order:

ORDER.

Southern Pacific Railroad Company, Southern Pacific Company and San Pedro, Los Angeles and Salt Lake Railroad Company having applied to this Commission for permission to remove certain limitations with reference to local passenger traffic between San Bernardino and Riverside Junction heretofore imposed by the conditions of a certain traffic agreement dated June 18, 1903, the matter having been regularly heard and the Commission being fully advised in the premises, and being of the opinion that the application should be granted,

It is hereby ordered that the application of the Southern Pacific Railroad Company, Southern Pacific Company and San Pedro, Los Angeles and Salt Lake Railroad Company be granted, subject to the following conditions:

(1) The provisions of that certain agreement dated October 21, 1914, by and between Southern Pacific Company, Southern Pacific Railroad Company and San Pedro, Los Angeles and Salt Lake Railroad Company which remove the limitations as to passenger traffic between Riverside Junction and San Bernardino existing in a certain agreement dated June 18, 1903, and as fully outlined in the opinion accompanying this order are hereby approved.

(2) The Commission reserves the right to make such further order as to it may seem right and proper, or to revoke its permission if, in its judgment, the public necessity and convenience demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of April, 1915.

Decision No. 2277, grade crossing; not printed. See end of volume.

DECISION No. 2278.

IN THE MATTER OF THE APPLICATION OF THE MONTEREY AND DEL MONTE HEIGHTS RAILWAY COMPANY FOR PERMISSION TO SELL AS A WHOLE OR IN PARCELS CERTAIN PROPERTY AND TO ABANDON OPERATION OF ITS LINE OF RAILWAY.

Application No. 1528.

Decided April 7, 1915.

Monterey and Del Monte Heights Railway Company, operating between the city of Monterey and Del Monte Heights, applies for permission to discontinue operation, and it clearly appearing that the patronage accorded this road does not warrant its operation, and there being no prospects of future improvements along this line, application granted.

J. Hall Lewis, for Applicant.

T. J. Field, for Bank of Monterey.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This application was filed with the Commission on February 5, 1915, and on April 1st a hearing was held in Monterey, of which hearing all interested parties were notified.

This line of railroad is about 2.86 miles in length. It extends from the easterly line of the city of Monterey east to serve the townsite of Del Monte Heights. The road was promoted and built by Geo. W. Phelps, president of the Del Monte Townsite Company and of the Geo. W. Phelps Company, which latter company also owns property in this vicinity. Operation was started February 22, 1912, and continued until December 31, 1913, when it was temporarily abandoned. It was resumed on March 1, 1914, and continued until October 31st, when operation was again abandoned, and has not been resumed.

The line is located on the county road; is constructed with 45-pound rails, and electrically operated. No equipment is owned by the company, the necessary cars having been leased or rented from the Monterey and Pacific Grove Railway Company. There is no bonded indebtedness against the railroad, nor are there any bills outstanding. Mr. Phelps owns all of the capital stock with the exception of the qualifying directors' shares, and the Bank of Monterey holds a mortgage against the property to the amount of \$10,000.00. This mortgage was assigned to it by Mr. Phelps, who had loaned this money to the railway company, taking as security physical property of the railway.

The Del Monte Heights townsite project was conceived by Mr. Phelps about eight years ago, and up to this time 7,500 lots have been sold, ranging in price from \$15.00 to \$400.00. At the present time less than one half of one per cent of the lots sold have been built upon and of these houses built very many are now vacant. Although there are other subdivisions in the vicinity which have sold lots and which have been to a small extent developed, it is evident that depending upon the townsite of Del Monte Heights alone there is not business enough to justify the operation of a street railway. Owing to the spasmodic operation of the road, the annual reports are not in such a condition that a clear understanding of its operating earnings and expenses is available, but a financial statement which accompanied the application shows that during the eight months this road was operated in 1914, the operating expenses amounted to \$880.00 and the operating income amounted to \$480.00. The road was operated during this period in the following manner: The company leased a car, paid for the power and made arrangements with the motorman of the car (the only employee of the company) whereby the fares collected should apply as wages to him. Under this arrangement the car was operated for eight months and when the earnings fell below what the motorman could afford to work for he left the service of the company and operation automatically ceased.

It was testified that when the lots were sold in this subdivision it was with the understanding that a street railway would be constructed to serve them. It was also testified that Mr. Phelps had many assurances from people who purchased lots that they would in the very near future build and live upon these lots. Mr. Phelps carried out his promise and built the line, but no development took place and the growth of the population of the townsite did not justify its continuance in operation, and Mr. Phelps testified that he had now lost about \$40,000.00 on the railway venture and that the townsite project had also been unsuccessful.

The probable salvage value of the material belonging to this railroad would amount to \$7,000.00 if a favorable sale was made. Mr. Field of the Bank of Monterey testified that the bank would take this amount to satisfy its loan of \$10,000.00, so it is apparent that Mr. Phelps and the bank both stand to lose more by this transaction than could be lost by the lot owners even though it may well be that the abandonment of this railway will cause a certain depreciation in the value of their holdings.

There is no question in my mind but that service on this line should be abandoned, and that permission should be granted the company to sell the physical property.

I recommend the following form of order:

ORDER.

Monterey and Del Monte Heights Railway Company, having made application to the Commission for permission to abandon operation on its line of railway and to sell its property in whole or in parcels, and a public hearing having been held, and it appearing that this application should be granted,

It is hereby ordered that the Monterey and Del Monte Heights Railway Company be and the same is hereby authorized to abandon its line of railway and to sell in whole or in parcels that certain property more particularly described in the application.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of April, 1915.

DECISION No. 2279.

IN THE MATTER OF THE APPLICATION OF MARIN MUNICIPAL WATER DISTRICT FOR AN ORDER OF THE RAILROAD COMMISSION FIXING AND DETERMINING THE JUST COMPENSATION TO BE PAID TO MARIN WATER AND POWER COMPANY FOR ITS LANDS, PROPERTY AND RIGHTS.

Application No. 1141.

Decided April 9, 1915.

Proceeding under section 47 of the Public Utilities Act upon application of Marin Municipal Water District for the establishment of a proper price to be paid for the properties of the Marin Water and Power Company. As a matter of convenience, property considered under three heads, namely, physical structures, land and water, franchises and going business, and after a general review of the considerable mass of evidence tendered, \$1,200,150.00 established as a just price to be paid for the properties of the water company, in connection with which the Commission holds:

Paving over mains: That a utility shall not be permitted an additional sum under this head when such paving has been laid subsequent to the installation of mains, such improvements being entirely the property of the public and can not be considered as adding additional value to the utility.

Land values: That allowances under this head shall be made only after a consideration of all the purposes to which the property can be put and not upon the single point, in dollars and cents, of a particular use. That no separate allowance, other than a proper value of the land itself, will be made under the head of water rights if, as in the present case, such water consists entirely of impounded storm waters which were not appropriated from running streams, but additional consideration will be given to land in connection with its value for the catchment and storage of storm waters and also an allowance for such water as may be already stored thereon. Allowances also made for the rights of the water company to appropriate water from certain flowing streams. As to watershed lands, consideration shall be given only to the actual property value and also as to its adoption to use for the catchment and storage of storm waters, though no allowance shall be made for water rights, as such do not exist.

Franchises and going concern value: That no separate allowance should be made under this head, though such elements should be considered as enhancing the value of the property. Various methods of arriving at a proper allowance for these items reviewed, in which it is held that should an allowance be based on deficient earnings following the inception of a utility, consideration should be given to no more than the first few years, after which period a wisely conceived and well managed enterprise should be on a paying basis.

Qualifications of witnesses: As the water company's contention that the exhibits and testimony of certain witnesses should be stricken out and that the Commission is not privileged to call witnesses on its own behalf; that the courts have on various occasions held that a court or commission has the right to call experts and, in addition thereto, the statutes of this State provide that this Commission shall have the right to resort to such sources of information as may be available; that a witness to testify to land values need not have experience in buying and selling property, as the Supreme Court of California has held such witnesses need merely be possessed of a peculiar method, differing from the procedure of average persons for arriving at his values.

George H. Harlan and Curtis H. Lindley, for Marin Municipal Water District.

Joseph Haber, Jr., and Jared How, for Marin Water and Power Company.

REPORT OF THE COMMISSION.

THIELEN, Commissioner.

This is a proceeding to fix and determine the just compensation to be paid by Marin Municipal Water District for the lands, property and rights of Marin Water and Power Company, a public utility engaged in the business of selling water for domestic, municipal and irrigation purposes in the southern portion of Marin County. This proceeding is brought under the provisions of section 47 of the Public Utilities Act. This section is too long to be set out here in full. It provides, in part, that any municipal water district may file with the Railroad Commission a petition setting forth the intention of the district to acquire under eminent domain proceedings, or otherwise, any existing public utility, and the lands, property and rights of any character whatsoever connected with such existing public utility, or any part or portion thereof; that said petition shall give a full and complete description of the property which it is intended to acquire; that the Railroad Commission shall thereupon proceed to fix and determine the just compensation that should be paid to the owner of the public utility for the lands, property and rights thereof, or any part or portion thereof, in the manner and in accordance with the provisions of section 70 of the Public Utilities Act; that the compensation fixed by the Railroad Commission in such proceeding shall be conclusive upon any court in which a proceeding for condemnation may be thereafter brought; that the Railroad Commission's findings shall be subject to review by the Supreme Court of this State in the same manner and within the same time as other orders and decisions of the Railroad Commission; and that if the Supreme Court shall decide that in any manner the Commission has not lawfully pursued its power, the court shall make its findings and refer the matter back to the Railroad Commission for correction or further action.

The procedure to be followed in such proceeding is set forth in section 70 of the Public Utilities Act.

On November 3, 1914, the people of California added to their constitution a new section, to be known as section 23 (a) of article XII, and reading as follows:

"The Railroad Commission shall have and exercise such power and jurisdiction as shall be conferred upon it by the legislature to fix the just compensation to be paid for the taking of any property of a public utility in eminent domain proceedings by the State or any county, city and county, incorporated city or town, or municipal water district, and the right of the legislature to confer such powers upon the Railroad Commission is hereby declared to be

plenary and to be unlimited by any provision of this constitution. All acts of the legislature heretofore adopted, which are in accordance herewith, are hereby confirmed and declared valid."

While it was probably unnecessary to enact this constitutional provision, its effect is to remove all possible doubt concerning the validity of sections 47 and 70 of the Public Utilities Act, at least in so far as the constitution of California is concerned.

The petition filed by Marin Municipal Water District, hereinafter referred to as the water district, alleges, in effect, that the water district is a public corporation organized under the act of May 1, 1911, providing for the incorporation and organization and management of municipal water districts, and the amendatory act of December 24, 1911; that the boundaries of the water district are as specifically set forth in the petition; that Marin Water and Power Company, hereinafter referred to as the water company, has at all times been a corporation organized and doing business under the laws of California, and engaged in the supply of water for domestic, culinary and other purposes, to inhabitants of Marin county within the boundaries of the water district as now organized; that the water company owns and is in possession of certain franchises, water rights, rights of way, easements, reservoirs, tunnels, water pipes, water mains and distributing plant, water system and other property within the boundaries of the water district, and used or intended to be used by the water company in the conduct of its business as a public utility; that attached to the petition and marked "Schedule A" is a full and complete description of the lands, property and rights of the water company which the water district intends to acquire under eminent domain proceedings; that the board of directors of the water district duly passed a resolution declaring the intention of the water district to acquire under eminent domain proceedings the water company and all its lands, property and rights, and authorizing and directing the attorneys for the water district to prosecute the necessary proceeding before the Railroad Commission; and that it is the water district's intention to acquire under eminent domain proceedings, or otherwise, the public utility and the lands, property and rights of the water company, as set forth in said Schedule A. The water district thereupon asks the Railroad Commission to fix and determine the just compensation which shall be paid by the water district for said public utility and its lands, property and rights of way.

During the trial of this proceeding, the water district filed without objection an amendment to said Schedule A, so as to describe with greater particularity certain of the property of the water company.

Public hearings on this application were held in San Francisco on July 27th, 28th and 29th, August 19th, 20th, 21st, 22d, 26th, 27th and

28th, September 4th, 5th, 8th, 10th, 11th, 14th, 15th, 16th, 17th, 18th and 19th, and October 2d, 1914. Counsel asked permission to file briefs, the water district's reply brief having been filed on February 4, 1915. Careful consideration has been given to all the evidence, exhibits and briefs. On April 3, 1915, the Commissioner who heard the evidence made a personal inspection, together with representatives of both parties, of the property of the water company sought to be acquired. Thereafter, on April 5, 1915, the Railroad Commission made its order submitting this proceeding, and it is now ready for decision.

The water company supplies water to the municipalities of San Rafael, San Anselmo, Ross and Larkspur and the inhabitants thereof, and to the residents of intervening and adjacent unincorporated territory, and also to the municipal water plant of Sausalito, the State's prison at San Quentin, the United States military post at Fort Baker and the United States immigration station at Angel Island.

The water company owns watershed lands on the northerly slope of Mt. Tamalpais, on which lands are located two dams and reservoirs, known respectively as Phoenix Gulch and Lagunitas. From these reservoirs transmission mains lead to two equalizing and distributing reservoirs, known as Forbes Hill reservoir and Moore Hill reservoir, from which reservoirs and the water company's mains a distributing system takes the water for distribution to the water company's customers. The Coleman reservoir in San Rafael is fed from springs and supplies water to a few houses in San Rafael. The water company has extended a main from Corte Madera to the town of Sausalito, where the water is sold to the municipality for distribution in the municipal water system, and also to Northwestern Pacific Railroad Company. The Sausalito pipe line has been extended to the entrance of the United States military post at Fort Baker, where the Federal government has tapped the pipe for the purpose of carrying water inside the reservation gate. Water from this main is also transported by the Federal government to Angel Island by barge. The water company also owns a tract of land located below the Lagunitas reservoir tract, and known as Lagunitas Dairy Tract, on which tract the water company expects hereafter to construct a dam and reservoir, to be known as the Bon Tempe or Tamalpais reservoir. The water company also owns riparian rights on the lower portions of Lagunitas and Paper Mill creeks, which rights have never been used, but which the water company claims are of value in connection with the possible construction hereafter of a dam at San Geronimo. The water company also owns certain other property which is in part used and in part not used at the present time in the service of water to the public. A full description of the water company's property will be

found in Schedule A of the petition herein, as amended, and also in "Exhibit A" attached to and made a part of the findings herein.

Counsel for the water company make the preliminary objection that the statutory provisions under which these proceedings were brought are unconstitutional on the ground that they deny to the water company due process of law. This Commission must assume that the constitutional and statutory provisions under which it acts are valid. If any of them are to be declared invalid, this must be done by the courts and not by this Commission. If this Commission were called upon to decide this question on the arguments as presented by counsel, we would say without hesitation that there is no merit in these contentions.

Before proceeding to discuss in detail the problems presented by this application, I shall rule on two motions made by counsel for the water company, on which motions a ruling was deferred.

Counsel for the water company objected to the consideration of the testimony and exhibits of Edwin Duryea, Jr., a witness for the water district, for any purpose other than as specified in the objection. This objection will be sustained and the consideration of the testimony and exhibits of this witness will be limited as thus specified.

Counsel for the water company also moved to strike out the entire testimony and exhibits of W. M. Wells, a witness called by the Railroad Commission. Mr. Wells presented testimony concerning the value of the water company's lands. The motion made no segregation as between the facts testified to by Mr. Wells and his opinions, but was an omnibus motion directed to his entire testimony and exhibits. No objection was made until Mr. Wells had completed his entire testimony, at which time counsel for the water company made their motion, specifying a number of grounds of objection. The principal grounds, and the only ones which it is necessary to consider, are as follows:

1. That the witness was not qualified to testify.
2. That the witness was called by the Railroad Commission.
3. That the theory on which the witness testified differed from that presented by the witnesses for the water company and for the water district.

Counsel for the water company contend, in the first instance, that Mr. Wells was not competent to testify concerning land values in Marin County for the reason that he has not been a dealer in real estate in that county, and does not bring himself within counsel's definition of an expert. As I understand the law, it is not necessary that a witness testifying concerning land values shall have been engaged in the real estate business or that he shall be a so-called expert in the strict sense

of the term. As was said by the late Judge De Haven in *Spring Valley Water Works vs. Drinkhouse*, 92 Cal. 528, 534:

"All that it is necessary to be shown to entitle a witness to give an opinion is that he has some peculiar means of forming an intelligent judgment as to the value of the property in question, or the effect of a particular improvement, beyond what is presumed to be possessed by men generally."

So, too, it is said in Lewis, *Eminent Domain*, 3d ed., sec. 654. that a witness may testify concerning land values if the court can see that the witness has some peculiar advantage in forming a correct opinion. The author continues that it is not necessary that the witness should have been engaged in the real estate business. To the same effect see: *City of Santa Ana vs. Harlin*, 99 Cal. 538, 545; *San Diego Land and Town Co. vs. Neale*, 78 Cal. 63, 76; *Reed vs. Drais*, 67 Cal. 491, 493. The rule is the same in other leading jurisdictions. See *Shattuck vs. Stoneham Branch Railroad*, a Massachusetts case, reported in 6 Allen 115, 117; *Robertson vs. Knapp*, 45 N. Y. 91; *Pennsylvania and New York Railroad and Canal Co. vs. Bunnell*, 81 Pa. St. 414, 426; and *Leroy and W. Ry. Co. vs. Hawk*, 39 Kans. 638, 18 Pac. 943.

The question as to who is competent to give an opinion concerning land values is generally left to the discretion of the trial judge. (Lewis, *Eminent Domain*, 3d ed., sec. 654.) A very recent case in which the principle was strikingly applied in California is *Vallejo and Northern Railroad Company vs. Reed Orchard Co. et al.*, decided on March 5, 1915. In this case, the court first quotes section 4 (a) of article VI of the constitution of California, as amended on November 3, 1914, as follows:

"No judgment shall be set aside, or new trial granted, in any case, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice."

The court then referred to the action of the court below in refusing to receive the evidence of a witness named Johnson, who was presented by the defendant, and who was not permitted to testify concerning the value of certain land, although other witnesses called for the plaintiff and having qualifications apparently not very different from those of Mr. Johnson, were allowed to testify. The appellant contended that the court below must have been in error either in receiving the testimony of the witnesses for the plaintiff or in rejecting the testimony of the witness Johnson for the defendant. The Supreme Court of California, however, after a careful analysis, sustained the action of the court

below in both respects. In discussing this general question, the court said:

“The question whether or not a witness is qualified to give his opinion, as evidence upon a matter in issue, is submitted to the trial judge in the first instance, and is to be determined by him before such opinion may be given. (*Fairhawk vs. Hughson*, 58 Cal. 314.) It is, in itself, in the nature of a trial of a question of fact, by evidence addressed to the judge alone, and, as in other decisions on questions of fact by a trial court, his ruling thereon is a matter of discretion and will not be overturned on appeal unless there is an actual want of evidence to support it or a clear abuse of discretion in ruling upon the evidence given on the subject. (*Howland vs. Oakland, etc. Co.*, 110 Cal. 513, 521; *Mabry vs. Randolph*, 7 Cal. App. 427.) If there is any substantial evidence to sustain the ruling, the exception thereto will be disallowed. (*Conness vs. Commonwealth*, 184 Mass. 544; *Klaus vs. Commonwealth*, 188 Mass. 152; *Omaha, etc. Co., vs. Douglass Co.*, 62 Neb. 7; 1 Wigmore, Evidence, 16th ed., sec. 430f; 2 Elliott, Evidence, secs. 1036, 1037; 17 *Cyc.* 31.)”

After referring to the qualifications of the witness Johnson, the court then continues as follows:

“It may be admitted that if the court had decided the other way, the decision would in like manner be sustained, but we must sustain the decision unless an abuse of discretion appears and we can not say that it is here shown.”

The testimony here shows that the witness Wells received a degree as civil engineer from the University of Washington; that he was formerly employed by the Railroad Commission of Oregon and that he had charge of the valuation of all the lands and terminal grounds of the steam railroads of Oregon; that he has, since January, 1912, been continuously employed by the Railroad Commission of California in valuing the real estate of various classes of public utilities in this State; that he has valued a considerable portion of the real estate of the steam railroads of California, including property worth about six million dollars in the San Francisco Bay region; and that he has also in certain instances investigated the actual cost and the value of the real property of certain electrical and water companies, including the lands and waters used in generating hydroelectric energy by Pacific Gas and Electric Company. The exhibits offered by him in this proceeding show that he made a most careful investigation into the recent sales of land, both with and without water rights, in southern Marin County, and they present to this Commission a record of numerous recent transactions involving land values in the vicinity of the property of the water company, in addition to the transactions referred to by any other witness on land values. The testimony of witness Wells and the exhibits prepared by him show that he is carefully trained in the ascertainment

of land values and that he has peculiar means of forming an intelligent judgment concerning the value of real estate in addition to that possessed by most men. What counsel have said concerning the testimony of this witness will, of course, be carefully considered in determining the weight to be given to his testimony, but the motion that his entire testimony and exhibits be stricken out on the ground that he was not qualified to testify will be denied.

Counsel next moved to strike out the testimony of the witness Wells on the ground that he is an employee of the Railroad Commission and was instructed by the commissioner conducting the hearing to prepare and present a report on the value of the lands of the water company. Counsel contend, first, that witnesses are naturally biased in favor of the party calling them. If this is true, the witnesses for the water company in this proceeding were naturally biased in favor of the water company and the witnesses for the water district were biased in favor of the district. The witness Wells, however, was not called by the water company nor by the water district. He was called by the Railroad Commission, representing the State of California, which has no interest in this matter other than to see that exact justice is meted out as between the contending parties appearing before it. If the contention of counsel in this respect is true, there is all the more reason why the Railroad Commission should have the power to call witnesses who are not biased in favor of either contending party. Counsel further argued that the Railroad Commission in this proceeding sits as a court or jury, and that neither court nor jury in an ordinary condemnation suit has any power to call a witness. In other words, the contention is that the witnesses called by both sides are naturally biased, but that the tribunal charged with the administration of justice in this case is precluded from calling witnesses who owe their sole allegiance to the State of California and who are presumed to be fair and impartial as between the contending parties. If this contention prevails and the Railroad Commission is to be precluded in cases of this kind from calling its own trained employees, the result will be more to encourage the playing of a game in a certain way than to incur the presentation of the truth to this tribunal.

If this were the law it would be most unfortunate. However, the Supreme Court of California, in *Faulkner vs. Joshua Hendy*, 79 Cal. 265, clearly intimated that a court does have the right to call witnesses in matters requiring careful or detailed investigation. This is the law in England (*Badische Anilin und Soda Fabrik vs. Levinstein*, Law Reports, 24 Ch. Div. 156; *Mellin vs. Monico*, 3 C. P. D. 142), and quite a number of the states of this Union are now giving consideration to the matter. In *O'Donnell vs. Henry Forrest & Company*, 44 La. Ann.

845, the Supreme Court of Louisiana sustained the action of the court below in referring certain matters to an investigator to report.

That the courts in this country have the right, at least when authorized by statute, to refer questions to investigators or experts, seems to show conclusively that such procedure does not deny to a party any of his constitutional rights. Whatever the law may be elsewhere, the Public Utilities Act of this State, passed under the authority of section 23 of article XII of the constitution, and validated, if necessary, with reference to the statutory provisions under which this proceeding is brought, by section 23 (a) of article XII of the constitution, as adopted on November 3, 1914, specifically provides in section 70 thereof that the Railroad Commission shall have the right in proceedings of this character to resort to any source of information available. This right certainly includes the right of calling witnesses to testify at hearings, subject, of course, to cross-examination by all sides. It is well known that one of the chief reasons which prompted the amendment to section 47 of the Public Utilities Act and the submission and adoption of section 23 (a) of article XII of the constitution of this State, was to secure the services in the condemnation of the property of public utilities not only of commissioners, who were supposed to be particularly qualified along these lines, but also of the trained employees of the Commission, who might testify in cases of this character, and thus give to the Commission the very great advantage of having testimony presented not by either party but in behalf of the State, which stands as the impartial arbiter between the owner of the public utility property and the municipality or district which is seeking to acquire it. The evils of professional expert testimony are now the subject of serious consideration by leading judges and lawyers in all parts of the United States and it is unnecessary for me to comment thereon. The motion of counsel for the water company, based on these contentions, will likewise be overruled.

Counsel for the water company further contend that the testimony and exhibits of the witness Wells should be stricken out for the reason that the method used by him in ascertaining the value of the lands of the water company differs from the method employed by other witnesses. The method employed by Mr. Wells was to give consideration to all the uses to which the land of the water company can reasonably be devoted now and in the immediate future, including the use for the catchment and storing of water, and then to assign a value to the land in view of all of these possible uses. Acting under this method, Mr. Wells refused to assign a separate value for any so-called "water rights" in connection with the watershed lands of the water company, but gave consideration to the adaptability of the land for the purpose of catching and storing water in giving his opinion on the ultimate question of the fair value of the land. The mere fact that the method used by one witness

differs from the method used by all the other witnesses is, of course, no reason for excluding the testimony of the one. He may be correct and all the others may be wrong. Whether Mr. Wells was correct in his method will hereinafter be discussed. The Railroad Commission is certainly entitled to consider his evidence and his methods and then to give to his testimony the weight to which it seems entitled. It goes without saying that the fact that Mr. Wells was called by the Railroad Commission will not result in giving to his testimony any weight in addition to the weight to which it is entitled under the established rules.

The motion to strike out the testimony and exhibits of the witness Wells will be denied.

I shall now pass on to a consideration of the value of the property of the water company.

While it will be necessary, for the purpose of analysis, to give consideration to various portions of this property separately, I shall bear in mind that this property is to be acquired as a whole and that the finding on the question of value in this proceeding must be a finding of the value of the entire lands, property and rights of the water company as a unit. The necessity of making this single ultimate finding of value is not only prescribed by section 47 of the Public Utilities Act but is also in accordance with the decisions elsewhere. As was said in the leading case of *Brunswick and Topsham Water District vs. Maine Water Company*, 99 Me. 377, 59 Atl. 537, at page 539 of the Reporter:

“There is only one value. It is the value of the structure as being used. That is all there is of it.”

See also *Norwich Gas and Electric Co. vs. City of Norwich*, 76 Conn. 565, 57 Atl. 746, and *Matter of Board of Water Commissioners*, 71 App. Div. 544, 76 N. Y. S. 11.

The usual inquiry in cases of condemnation is, as stated by Justice Field in the leading case of *Boom Company vs. Patterson*, 98 U. S. 403, 408:

“What is the property worth in the market, viewed not merely with reference to the uses to which it is at the time applied, but with reference to the uses to which it is plainly adapted, that is to say, what is it worth from its availability for available uses?”

The following authorities further establish the doctrine that the usual inquiry is to ascertain the market value of the property, in view of all the uses to which it is adapted:

United States vs. Chandler-Dunbar Water Power Co., 229 U. S. 53;
Sacramento Southern Railroad Co. vs. Heilbron, 156 Cal. 408;
Kishlar vs. Southern Pacific Railroad Company, 134 Cal. 636;
City of Santa Ana vs. Harlin, 99 Cal. 538;
San Diego Land and Town Company vs. Neale, 88 Cal. 50;
San Diego Land and Town Company vs. Neale, 78 Cal. 63;
 Lewis, *Eminent Domain*, 3d ed., sec. 706.

It must be perfectly evident, however, as pointed out by counsel of both sides in this proceeding, that property such as that owned by the water company in this proceeding does not have a market value, in the usual sense in which those words are used. It is not bought and sold on the market like a bushel of wheat, but is a property devoted to a particular use and subject only to occasional sale. This fact was clearly pointed out by Justice Van Fleet in *San Diego Water Company vs. City of San Diego*, 118 Cal. 556, 568, with reference to a public utility water company in the city of San Diego, as follows:

“The judicial test of market value depends upon the fact that the property in question is marketable at a given price, which in turn depends upon the fact that sales of similar property have been and are being made at ascertainable prices. But such property as this is not so sold, at least, not often enough to furnish a fair criterion; and the very fact of governmental regulation would necessarily control the price. Until the rates are fixed, no one can say how much the property would sell for, and therefore that price cannot be ascertained as a basis for fixing those rates.”

As is said by *Lewis—Eminent Domain*, 3d ed., sec. 706:

“If property has no market value, then it is a question of real or actual value and every fact bearing upon such value may be shown.”

Or, in the language of section 47 of the Public Utilities Act, the problem is to ascertain “the just compensation that should be paid.”

For the sake of convenience, I shall consider the property of the water company under the following three heads:

- (1) Physical structures.
- (2) Land and water.
- (3) Franchises and going business.

1. Physical structures.

Estimates of the cost to reproduce the physical structures of the water company and of the estimated depreciated reproduction value thereof were presented as follows: for the water company by J. T. Ryan, of the engineering firm of J. G. White & Company, and P. E. Harroun; for the water district by J. H. Dockweiler and A. R. Baker, with testimony on certain features affecting the physical structures by William Mulholland; and for the Railroad Commission by R. W. Hawley and H. F. Clark, two of the Commission's hydraulic engineers.

The methods used by these engineers vary in important respects. A detailed discussion of the various points of difference would lead to almost endless refinement and to a decision beyond all reason in point of length. Suffice it to say that I have given careful consideration both at the hearing and subsequent thereto, to the method used by each engineer and to the weight to which his testimony is entitled.

In estimating depreciation, all the engineers used the straight line method, and Mr. Ryan, in addition thereto, also presented an estimate on the sinking fund method. There were important differences as between the engineers with reference to so-called functional depreciation, especially as applied to the Phoenix Gulch dam and the Lagunitas dam.

One of the important questions which must be decided in connection with the value of the physical structures is the allowance to be made by reason of the fact that certain of the streets and highways in which the water company's mains and pipes are laid are now paved or macadamized. Counsel for the water company contend that the water company must be allowed the cost of cutting through and replacing all the pavement which now exists, even though the water company's mains and pipes were laid in the streets before the pavement was laid, so that the water company was not compelled to make any payment with reference to the pavement and was not compelled to undergo the increased expense in laying mains and pipes which obtains when it is necessary to cut through the pavement for the purpose of laying the mains and pipes and thereafter to replace the pavement. Of course, there is no claim made that the water company owns any of the pavement. The pavement belongs to the public. Counsel's claim for an allowance of added value by reason of the existence of the pavement, results from the application of the reproduction value theory in one of its branches only, without the consideration of any other element which enters into the fair value of the property. Counsel contend that the water district must pay what it would cost to duplicate the water company's system in its present condition. Whether this claim should be allowed, even under the reproduction theory, depends on whether the existing plant is to be reproduced exactly as it now stands or whether a plant is to be constructed which will hereafter perform the *service* of the existing plant, even though it may be constructed in another manner. It may well be that if a new plant were being constructed, the mains could to a large extent be laid in unpaved streets or alleys, so as to save a considerable portion of the expense of laying them in paved streets. The chief difficulty, however, with this contention of counsel is the confusion between a particular theory and the ultimate question of the fair value of the property. It seems absurd to say that a water system is of greater value because the streets over its mains are paved. As Mr. Hawley clearly pointed out, a water system has, if anything, a diminished value if the streets in which its mains are laid are paved, both because it will cost more to dig through the pavement and take care of the mains than would otherwise be the case, and because the expense of replacing the mains at the end of their useful life will be greater unless such replacement is made when the pavement has been worn

out and it needs replacement. The question of paving over mains illustrates clearly the difficulties into which we run if we confuse the results of a particular theory with the ultimate question of the fair value of the property. I consider that Mr. Hawley is entirely correct in allowing nothing for pavement over mains, in estimating the fair value to be assigned to mains which were placed without the expense of cutting through the pavement.

The decisions of the courts and commissions, while not entirely consistent, in general favor the view herein expressed. In *Consolidated Gas Company vs. Willcox*, 157 Fed. 849, the court allowed an increased value to the mains because of the pavement which was installed subsequent to the laying of the mains. The general principles announced by the court with reference to estimated reproduction value new were sustained by the Supreme Court of the United States in 212 U. S. 19, but nothing was said in the opinion with reference to the particular question of pavement over mains. On the other hand, the Supreme Court of Iowa, in *Cedar Rapids Gas Light Company vs. Cedar Rapids*, 144 Ia. 426, 120 N. W. 966, refused to make an allowance for such pavement over mains, and this decision was also sustained by the Supreme Court of the United States in *Cedar Rapids Gas Light Company vs. City of Cedar Rapids*, 223 U. S. 655, although in this decision the Supreme Court of the United States again makes no specific reference to the question of pavement over mains. Thus, the highest tribunal in this country has indirectly passed upon this question each way, although without mentioning it. In *People vs. Willcox*, 141 N. Y. S. 677, 681, the lower court, relying on the decision in 157 Fed., made an allowance for pavement over mains, but the decision in this regard was specifically overruled by the New York court of appeals in *People vs. Willcox*, 210 N. Y. 479, 104 N. E. 911, decided on March 24, 1914. At page 915 of the Reporter, Justice Miller, speaking for the court, says:

“The new pavement in fact added nothing to the property of the relator. Its mains were as serviceable and intrinsically as valuable before as after the new pavements were laid.”

The Railroad Commission of Wisconsin, in a number of well reasoned cases in which the commission was ascertaining the value of the property of public utilities for the purpose of acquisition by public authorities in proceedings very similar to the proceeding now pending before this Commission, took the same position as that which has been taken by the highest courts of New York and Iowa. In *In re Fond du Lac Water Company*, 5 W. R. C. R. 482, the commission, in refusing an allowance for paving over mains where the mains were laid before the streets were paved, quotes with approval its decision in the earlier

case of *City of Ripon vs. Ripon Light and Water Company*, 5 W. R. C. R. 1, 10, as follows:

“Every legitimate expenditure in adapting the utility to the demands of progress and community growth is a proper charge to construction and as such the investment therefor is entitled to participate in the distribution of the earnings from operation. Obviously expenditure for pavement incurred by the utility in response to assessments levied therefor by the city, or the cost of cutting through such pavement for construction purposes and its replacement, are proper capital charges. It does not necessarily follow that the utility is to capitalize expenses for municipal betterment in which it has not participated and where such accruing benefits to the utility are remote and incidental, and thus compel the subscribers for utility service to pay increased rates because of public improvements. The improvement is not a proper element of value where the pavement has not been paid for by the utility, nor any expense in connection with it directly incurred, in determining a value which shall serve as the basis for an adjustment in rates. The item of ‘paving’ in the tentative valuation is for this reason excluded.”

The same conclusion was reached by the Wisconsin commission in two other cases of valuation of public utility property—*In re Appleton Water Works Company*, 6 W. R. C. R. 97, 120; *In re Manitowoc Water Works Company*, 7 W. R. C. R. 71, 88.

I am of the opinion, both on reason and authority, that no allowance should be made, in valuing the mains, for pavement, unless the pavement was laid prior to the laying of the mains, for the reason that such pavement does not in any way make the property more valuable.

The following table shows the estimated reproduction cost, the estimated depreciation and the estimated depreciated reproduction value of the structural properties of the water company as presented on behalf of the water company by J. G. White & Co., and P. E. Harroun, on behalf of the water district by A. R. Baker and J. H. Dockweiler, and on behalf of the Railroad Commission by R. W. Hawley and H. F. Clark:

In Table No. 1 the depreciation as estimated by J. G. White & Company is given on the straight line basis, so as to make the valuation comparable with the valuation presented by the other engineers. The accrued depreciation as estimated by J. G. White & Company on the sinking fund basis and shown in the water company's Exhibit “E,” amounts to only \$172,658.00, as contrasted with the sum of \$252,458.00 on the straight line basis. The estimated depreciated reproduction value as presented by Mr. R. W. Hawley and Mr. H. F. Clark, totalling \$763,028.00, includes an item of \$14,060.00 for pavement over mains, in case the Commission should rule that such allowance must be made

where the mains were laid before the pavement. These engineers were of the opinion that the proper allowance to be made would exclude this sum and would amount to \$748,968.00.

2. Land and water.

I come now to a discussion of the valuation of the water company's land and of such water or water rights as the water company owns. These questions will be discussed under the three following heads:

- (a) Watershed lands and water.
- (b) Urban real estate.
- (c) Rights of way.

(a) *Watershed lands and water.*—Testimony concerning the value of portions or all of the water company's watershed lands and water was presented in behalf of the water district by Fred W. Dickson, J. H. Dockweiler, A. R. Baker and W. L. Courtright; in behalf of the water company by Frederick Croker, George M. Dodge, Carl J. Rhodin and Luther Wagoner; and on behalf of the Railroad Commission by W. M. Wells. The witness Dickson gave an estimate of the value of the water company's watershed lands from the point of view solely of their adaptability as ranch lands. He did not take into consideration their adaptability for reservoir purposes, residence purposes or any other purpose. The witness Dockweiler did not undertake to give any testimony with reference to the value of the water company's watershed lands at the present time. He testified that, in his opinion, the water company has water rights in connection with the watershed lands now in use, to which rights he assigned a value of \$77,400.00 for each one million gallons daily flow of water used by the water company's consumers. In reaching this conclusion, the witness assumed a value of the lands for general purposes, other than their use for the purpose of catching and storing water, and then added a value of \$77,400.00 for each 1,000,000 gallons daily flow, which value, in his judgment, absorbed the added land value due to the fact that the lands can be and are used for the purpose of catching and storing water. The estimate of \$77,400.00 for each 1,000,000 gallons daily flow of water was based almost entirely on what has been paid for water under entirely different conditions in southern California, and for that reason can have but little weight in this proceeding.

The estimate of the value of the water company's watershed lands presented by A. R. Baker will have but little weight, for the reason that Mr. Baker frankly stated that he was not familiar with land values in Marin County. His estimate of \$77,400.00 for each 1,000,000 gallons daily flow of water was apparently taken from Mr. Dockweiler's estimate and is not entitled to serious consideration.

W. L. Courtright, testifying for the water district, and Frederick

Croker and George M. Dodge, testifying for the water company, testified to the value of the watershed lands of the water company for subdivision purposes only. These witnesses did not take into consideration the adaptability of this land for the purpose of catching and storing water or for any other purpose except subdivision. The witnesses were not asked and did not testify as to the value of the property in view of all the uses to which it is reasonably adaptable. Formerly it seems to have been the rule in this State that the witnesses would be permitted to testify to the value of the land in dollars and cents for a specified purpose as distinguished from the market value of the land in view of all the uses to which it is adaptable; *San Diego Land and Town Company vs. Neale*, 78 Cal. 63; *Spring Valley Water Works vs. Drinkhouse*, 92 Cal. 528. In the more recent decisions, however, the Supreme Court of this State has adopted the prevailing rule, which is that the proper inquiry is not what is the value of the property for any particular use, but what is its worth in the market in view of its adaptability to all reasonable uses: *Lewis, Eminent Domain*, third edition, section 706. The prevailing rule seems first to have been stated by the Supreme Court in *City of Santa Ana vs. Harlin*, 99 Cal. 538, and later to have been clearly affirmed in *Sacramento Southern Railroad Company vs. Heilbron*, 156 Cal. 408. In the latter case, Justice Henshaw, after reviewing the earlier cases, at page 412, says:

“It is seen, therefore, that this court by its latest utterances has definitively aligned itself with the great majority of the courts in holding that damages must be measured by the market value of the land at the time it is taken, that the test is not the value for a special purpose, but the fair market value of the land in view of all the purposes to which it is naturally adapted, that therefore, while evidence that it is ‘available’ for this or that or the other purpose may always be given and should be freely received, the value in terms of money, the price which one or another witness may think the land would bring for this or that or the other specific purpose is not admissible as an element in determining the market value. For such evidence opens wide the door to unlimited vagaries and speculations concerning problematical prices which might under possible contingencies be paid for the land and distracts the mind of the jury from the single question—that of market value—the highest sum which the property is worth to persons generally, purchasing in the open market in consideration of the land’s adaptability for any proven use.”

While evidence concerning the value of the water company’s watershed lands in dollars and cents for some one particular purpose was presented by both sides without objection, I shall bear in mind the rule laid down by the Supreme Court of this State in the *Sacramento Southern Railroad Company* case and shall be guided by it.

W. M. Wells, called on behalf of the Railroad Commission, prepared a valuation of the lands of the water company in view of all the uses

to which they are reasonably adaptable, including the catchment and storage of water. While I am of the opinion, on all the evidence in this proceeding, that the value assigned by Mr. Wells is somewhat low, it would also appear that he is the only one of the witnesses so far named who applied the correct principles of valuation in reaching a conclusion as to the value of the land. Neither Mr. Wells nor any other witness presented a valuation of the storm waters which the water company has caught and impounded in its reservoirs.

The following table shows the valuation placed by the witnesses Court-right, Dodge, Croker and Wells on the different parcels of real property included in the watershed lands of the water company, on the bases hereinbefore indicated, together with the original cost of the property. It goes without saying that evidence of the cost of land many years ago is not persuasive evidence of its value at the present time:

TABLE II.

Value of Water Shed Lands of Marin Water and Power Company.

| Item | Acres | Court-right | Dodge and Croker | Wells | Original cost |
|--|-------------------------|---------------------------|------------------|--------------------------|--------------------|
| Worn Spring (includes four springs purchased in 1871). | 134.54 | \$5,891 00 (102.14 A.) | \$28,600 00 | \$15,617 00 | \$12,000 00 |
| Porteous tract (purchased in 1908). | 1,005.54 | 59,140 00 | 62,440 00 | 55,396 55 | *55,000 00 |
| Phoenix Gulch reservoir | 92.87 | 9,330 00 | " | 27,861 00 | *10,000 00 |
| Coleman tract (purchased in 1888, 1871 and 1873) | 783.73 10.40 7.26 | 16,908 30 (783.73 A.) | 71,700 00 | 16,907 20 (783.83 A.) | 5,000 00 420 00 |
| Lagunitas Dairy or Bon Tempe (purchased 1878) | 1,181.37 | 48,235 00 | 67,025 00 | 50,204 00 | 20,500 00 |
| Lake Lagunitas (purchased 1871). | 295.12 | 12,843 00 | 11,125 00 | 11,867 70 | " |
| Fish Gulch (purchased 1871). | 123.17 | 1,232 00 | 3,057 00 | 2,102 25 | *15,000 00 |
| Totals ----- | | \$153,579 30 | \$243,947 00 | \$179,956 40 | \$117,920 00 |

¹Includes springs.

²Includes improvements.

³Included below.

⁴Includes 3 tracts.

⁵Included above with Phoenix Gulch.

⁶Includes water rights on Howard-Shafter lands.

Carl J. Rhodin, a witness called by the water company, presented a method for ascertaining the value of lands, water rights if any, and water, altogether in one lump sum with respect to the watershed lands at present used by the water company, the Bon Tempe or Tamalpais lands and the San Geronimo situation. The method employed by Mr. Rhodin is, in effect, as follows: He first ascertains the lowest average wholesale price of water which obtains in the vicinity of San Francisco Bay for specific aggregate outputs of water. He assumes that the

water company's water is worth these prices for delivery at wholesale. He assumes that the construction of the Bon Tempe or Tamalpais dam will result in adding to the water company's regulated flow of water an amount of 3,000,000 gallons daily and by adding this amount to the 2,000,000 gallons daily which he estimates is the supply from the water company's existing developed sources, he secures a total of 5,000,000 gallons daily flow. He makes an allowance of 5 per cent for leakage in the transmission of the water from the reservoirs to the distributing systems. He then estimates how much it would cost to build the Tamalpais or Bon Tempe dam and to install a transmission system in connection therewith. He then takes 8 per cent of the total capital which he estimates would be invested for the storage and transmission of water if Tamalpais or Bon Tempe dam were completed, and adds thereto an amount which he estimates would be expended annually for operating expenses and taxes, and adds to this amount the sum which he estimates would be expended annually for depreciation and repairs if the Tamalpais or Bon Tempe dam were constructed and if it were operated in the manner contemplated by him. He then subtracts the total of all these charges from the revenue which he estimates would be secured if the amount of water which he estimates were sold at the wholesale price which he assumes and then capitalizes the difference. He concludes that the difference as thus capitalized represents the value of the lands, water rights and water of the respective units of this system. He estimates that this value, when the present water supply has been augmented by the construction of the Tamalpais or Bon Tempe dam, is \$846,200.00. By the same method, he concludes that the present discounted value for the Tamalpais or Bon Tempe rights alone is \$377,000.00, and that on the assumption that the San Geronimo dam is commenced in 1930, the present day value of the water company's rights in connection with that dam is \$168,600.00.

Luther Wagoner, a witness called by the water company, using a method of computation similar to that of Mr. Rhodin's, reaches a conclusion that the present value of the lands, water rights and water in connection with the Phoenix Gulch, Lagunitas and Tamalpais projects is \$749,666.00, and that by a similar method of computation the present value of the water rights in connection with the San Geronimo project is \$436,620.00. The value of the San Geronimo rights, as estimated by the witness Rhodin, was \$168,600.00 and the money actually paid by the water company for these water rights was \$20,900.00. I shall later discuss the value to be given to these estimates, but have confined myself so far to a general statement of the results reached and the methods used.

It now becomes necessary to discuss the principles of law applicable to the valuation of the water company's lands, water rights and water.

At the outset, counsel for the water district urged that as the water company's lands are devoted to a public use, the usual principles of valuation can not be applied, and counsel intimate that the value to be found by this Commission can be only a value for the present use of these lands. It is also pointed out that these lands were just as valuable for catching and storing water when they were originally acquired as they are now, and it is intimated that this Commission can allow as value of these lands only what they originally cost. For instance, if these lands had originally cost the water company \$50,000.00, and if the value of similar property not devoted to the public use located in the vicinity of these lands had increased to \$200,000.00, the claim is made that the Commission should allow only the original cost of the lands. I have given considerable thought to this contention, but am of the opinion that the Supreme Court of the United States has answered this question contrary to the views advocated by counsel for the water district. In the famous *Minnesota Rate Case*, 230 U. S. 352, Justice Hughes had under consideration, among other questions, the reasonable value to be allowed for the right of way and terminal grounds of certain railroads in Minnesota. These lands had been devoted to a public use just as much as the lands of the water company in this proceeding. Various methods of valuing these lands were suggested, but the Supreme Court held that the railroads could have no just cause of complaint if they were allowed "the fair average of the normal market value of land in the vicinity having a similar character." At page 455, Justice Hughes says:

"The company would certainly have no ground of complaint if it were allowed a value for these lands equal to the fair average market value of similar land in the vicinity, without additions by the use of multipliers, or otherwise, to cover hypothetical outlays."

While this was a rate case, and while Justice Hughes states the maximum which should be allowed, I am of the opinion that the rule as thus established by Justice Hughes will be of value in the present proceeding.

I am next confronted with the question as to whether the water company has any water right which should be valued separately from the land. In order to answer this question, it will be necessary to consider separately (a) the watershed lands in connection with Phoenix Gulch Lake and Lagunitas Lake; (b) the Bon Tempe or Tamalpais development; and (c) the Lower Lagunitas or San Geronimo rights. In order to escape the confusion which has to a considerable extent pervaded the testimony of the witnesses in this proceeding, and, to some extent, the arguments and briefs of counsel, it will be necessary to examine carefully the facts in connection with each of these three situations.

The water company claims and the water district in its reply brief, in effect, admits that the waters which flow into Phoenix Gulch Lake and Lagunitas Lake are simply storm waters which fall on the land and which run down the hillsides into these two lakes. The waters which are gathered in Phoenix Gulch Lake fall entirely on the lands of the water company. The waters which are accumulated in Lake Lagunitas fall partly on the lands of the water company and in part flow down over the water company's Fish Gulch tract from the Shafter-Howard lands. The evidence offered on behalf of the water company shows that there is here no live stream. There is no appropriation of water from the banks of a stream. There is no room for the application of the doctrine of either appropriation or of riparian rights, for the simple reason that neither of those doctrines can have application unless there is a natural stream of water. The water company's contention, based on *San Joaquin and Kings River Canal and Irrigation Company vs. County of Stanislaus*, 233 U. S. 454, that it owns a water right separate and apart from the land and that it is entitled to a separate valuation of such right, is not borne out by that case. The *County of Stanislaus* case was a case of the appropriation of water from the banks of a natural stream by an appropriator who did not own land in connection with such appropriation. The Supreme Court of the United States held that by virtue of the appropriation the canal company had secured a separate property right which it was entitled to have valued in a rate fixing case. The *County of Stanislaus* case can have no application to the facts now under consideration where it appears, as contended by the water company itself, that there is no natural stream and that the waters impounded by the water company are exclusively storm waters. The water company here owns land which is adapted, among other uses, to the catchment and storage of storm waters. In ascertaining the value of this land, the water company is entitled to have consideration given to this use, among others, but it is not entitled to a separate valuation for any so-called "water right," which right the water company does not own as a separate and distinct property right.

An analogous situation was presented to the District Court of the United States for the district of Nevada, in the case of *Water Company of Tonopah vs. Public Service Commission of Nevada*, in which case an application for a temporary injunction on behalf of the water company against the enforcement of rates prescribed by the Public Service Commission of Nevada was denied on August 13, 1913. This was a case of percolating waters, with apparently no evidence to show that the water was flowing in defined channels. The water company made a claim of \$500,000.00 for an alleged water right, which sum was considerably in excess of the value of all its remaining property. In this respect there seems to be but little difference between the claims made in Nevada and

those now so frequently presented in California. Judge Morrow refers to the water company's claims as follows:

"The water which it (the company) claims as a water right is percolating water running through its lands. I do not understand that percolating water passing under or through the soil is anywhere recognized as a water right, having a valuation separate and distinct from the land. It is not in any sense surface water. It is not water appropriated from running streams; nor is it water the right to which is the same as that of a riparian owner. Percolating water is part and parcel of the soil, and it is as much a constituent element of the land as the mineral therein contained. Its value, if it has any, is, therefore, in the land and can not be separated from the land. It follows that in this case the value which the water has must be in the land. It may be that the complainant's development of water upon this land has given it a largely increased value, but if that is so, it appears to me that that should be the valuation of the land with its water content as a whole and not as land with a water right attached. This may not make a great difference in the result; but it will enable the Commission and the court to make a comparison with other land of like character and similarly situated."

Again, in the conclusion of his opinion, Judge Morrow says:

"It seems to me that it would be difficult to establish an absolutely independent water value aside from the value of the land; but the value of the water with the land may be ascertained in the view of its available uses."

While the *Tonopah* case was a case of percolating water not flowing in definite channels, and the present case, in so far as we are now considering it, is a case of storm waters, the analogy of the *Tonopah* case bears strongly on my conclusion that in the present case the water company is not entitled to a separate value for any so-called "water right," but is entitled simply to a value for its land in view of all the uses to which it may reasonably be devoted, including the use of catching and storing water. The only separate value to which the water company is entitled is the value of the water which it has reduced to possession, as I shall shortly show.

Storm waters, like *feræ naturæ*, belong to a landowner only when he has captured them and reduced them to possession. When this has been done they are personal property which belong to him and which may have value. In his dissenting opinion in *Spring Valley Waterworks vs. Schottler*, 110 U. S. 347, Justice Field aptly states the doctrine of storm waters, at page 373, as follows:

"The water itself is the property of the company. It was not taken from a running stream; nor from any lake; nor from any source where the government could assert that it alone had the right to control and use it. It was collected by the company as it descended from the heavens. Whatever may be the difference of

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opinion as to the ownership of running waters, or of waters of navigable streams, or of lakes, it has never been doubted that water collected by individual agency, from the roof of one's house, or in hogsheds, barrels or reservoirs, as it descends from the clouds, is as much private property as anything else that is reduced to possession, which otherwise would be lost to the use of man. Indeed, it is a general principle of law, both natural and positive, that where a subject, animate or inanimate, which otherwise could not be brought under the control or use of man, is reduced to such control or use by individual labor a right of property in it is acquired by such labor. The wild bird in the air belongs to no one, but when the fowler brings it to the earth and takes it into his possession it is his property. He has reduced it to his control by his own labor, and the law of nature and the law of society recognize his exclusive right to it."

So in the present case the water company is the owner of lands which have a value, among other purposes, for the catchment and storage of water, and when the water company has accumulated storm waters in its reservoirs and has thereby reduced these waters to possession, it is also the owner of this water as personal property. The water company owns no so-called "water rights," but it owns land capable of certain uses and water reduced to possession and impounded in its reservoirs. If I own land which is adapted to the raising of wheat, and that is its highest present use, a purchaser of that land will pay me for it in view of this use. If I have not sown the land to wheat, I will receive payment only for the land, in view of its uses. On the other hand, if I have sown the land to wheat and there is a crop of wheat standing on the land at the time of its sale, I expect to be paid not merely for the land, but also for the crop which I have raised thereon. So in the present case, the water company is entitled to compensation for its watershed lands, and also for the crop of water which it has reduced to possession and stored on those lands at the time the water company parts with its title. No valuation of the water so stored as a separate item has been presented in this proceeding. Mr. Dockweiler's estimate of \$77,400.00 for each 1,000,000 gallons daily flow of water was reached by valuing the lands only for general purposes and apart from their use for the purpose of catching and storing water, and was apparently based on analogy to appropriated waters, besides being subject to the criticism already hereinbefore indicated.

One method of ascertaining the maximum value to be assigned to the crop of water reduced to possession by the water company, which was not referred to in the evidence or arguments of counsel, suggests itself to me. If I have grown a crop of wheat to maturity and proceed to sell it, I expect to receive a price sufficient to pay interest on the investment plus the cost of sowing the wheat, raising it, cutting it, and possibly transporting it to market. If I sell my land before I

have sown my crop, I can not expect to receive anything for the crop which has not been sown. On the other hand, if I sell my land just after I have sown the crop, I can not expect compensation for the crop based on what it would have cost me if I had grown it to maturity, harvested it and brought it to market. When the water company sells its land it has thereon a certain crop of water. If it were left in possession of the property it would sell that crop during the ensuing year and would be obliged to incur the expense of operating and maintaining its plant for a year and would expect to receive interest on its investment during a year and to lay aside a sum for depreciation. These expenses, however, while they have been incurred in connection with the crop which was gradually sold during the preceding year, have not as yet been incurred in connection with the crop which is now on hand. Hence, it may be suggested that the maximum value which can attach to the crop of water now on hand is the difference between the revenue which would be derived from its sale during the ensuing year and the sum total of interest on a fair value of the property for one year, operation and maintenance expenses for one year, and depreciation for one year. While it may be said that the revenue to be derived of course involves the rates and that the rates depend upon the value of all the property, including the stored water, the problem becomes less difficult when we find, as we do here, that the rates now in effect and charged by the water company have, in general, with the exception of a few years, been in effect since the early '80s. Under these circumstances, it would seem reasonable in the absence of affirmative proof to the contrary, to assume that the revenue derived from the sale of one year's water, which is the normal year's accumulation, is a reasonable revenue and that the value of the stored water, as water, can not reasonably exceed the difference between one year's revenue and the sum total of a reasonable allowance for interest on the fair value of the property, operating and maintenance expenses and depreciation.

In connection with the Phoenix Gulch and Lagunitas watershed lands, I shall give consideration to the rights of the water company to the flowage of water over its Fish Gulch tract, its right to divert water from Cataract Gulch, and its right to divert water from Swede George. These rights were all acquired by Marin County Water Company, the predecessor of the water company, by deed dated September 15, 1871, from Oscar L. Shafter, James McM. Shafter and Charles Webb Howard, together with the water company's Fish Gulch tract and other rights, all for the sum of \$15,000.00 in nonassessable capital stock of Marin County Water Company. The deed grants to Marin County Water Company, its successors and assigns, the Fish

Gulch tract "and all waters flowing or to flow therefrom"; also, "the right for the said term of fifty years from the date hereof to intercept, store, use, divert and appropriate the water flowing and hereafter to flow in the Cataract Gulch or creek so-called upon the said rancho at points upon said gulch respectively situated at 680, 810, 925 and 990 feet above mean low tide in the bay of San Francisco"; also, "the right to use the waters of certain other streams," including Swede George. Considerable water flows down over the Fish Gulch tract from the Shafter-Howard lands, but there is no evidence as to the exact amount. Value must, of course, be assigned to this right. The rights with reference to Cataract Gulch and Swede George, expire in 1921. The waters of Cataract Gulch have never been used and no witness has assigned any value to them. Mr. Rhodin places a value of \$4,000.00 on the Swede George flow.

Referring now to the Lagunitas Dairy tract and to the proposed construction of a dam thereon, to be known as the Tamalpais or Bon Tempe dam, the evidence shows that the construction of such a dam has been under consideration by the water company for many years, but that its construction has been so prevented by injunction suits and other delays that up to the present time nothing further has been done other than the construction of a core wall to the surface of the ground and the acquisition of the right to abandon a county highway which formerly ran through the bottom of the proposed reservoir. J. G. White & Company reported that the total sum so far spent on this dam has been \$33,665.00. Mr. Hawley estimated the cost of reproducing the work which has been performed at \$17,060.00. The right to abandon the county highway cost the water company some \$12,500.00. The water company made a formal offer at the hearing to continue the construction of a dam at this point, if the water district would agree that the money so expended should be added to the compensation fixed by this Commission for the existing properties, but the water district was unwilling to accept this offer, for the reason that its plan of development contemplates the construction of the so-called Alpine dam on the Shafter-Howard lands and the elimination of the Tamalpais project.

As already stated, Mr. Rhodin and Mr. Wagoner present elaborate computations to show the value of the watershed lands, water rights and water of the water company when the Tamalpais dam shall have been constructed. The method used by Mr. Rhodin was an earnest method to arrive at the value of the lands, water rights and water, but is subject to criticism in a number of respects, which detract very seriously from the value of his testimony. In the first place, Mr. Rhodin assumes that the water company owns water or water rights in connection with its Tamalpais project. The fact, as contended by

counsel for the water company, is that there is no running stream in connection with the Tamalpais project, any more than in connection with the Phoenix Gulch and Lagunitas developments, and that with reference to the Tamalpais project, also, there is no application either of the doctrine of appropriated waters or of riparian waters. The waters to be impounded by the Tamalpais dam would be entirely storm waters and the water company would have no property therein until such waters had actually been impounded and reduced to possession. The proper method to value the water company's property in connection with the Tamalpais project would seem to be to follow the usual rule of valuing the land in view of all the uses to which it may reasonably be devoted, including a proper allowance for the construction work actually performed and the acquisition of the rights in the county highway. There are no so-called "water rights" which the water company may claim in connection with its Tamalpais lands other than as the adaptability of the land for the catchment and storage of water enters into the value of the land, and the water company has no right to a separate value for water in connection with this development for the simple reason that it has not reduced to possession a single drop of water in connection with this project.

Mr. Rhodin's method is further subject to criticism for the reason that the prices taken by him for water sold at wholesale in communities around San Francisco Bay are all, with the exception of the water sold by North Coast Water Company for use in Belvedere, taken from companies which according to Mr. Rhodin's own testimony, can not sell water in Marin County. It would be just as logical to go to San Diego County to ascertain the price of water to be sold at wholesale in Marin County. If this were done, it would be found that at the rates established by this Commission for water sold by the city of San Diego in wholesale quantities, the value of the lands, water rights and water of the water company in this proceeding would be very materially less than those assigned by Mr. Rhodin. In answer to the contention that it is reasonable to use the wholesale prices charged for water by other water companies in the general vicinity of San Francisco Bay, for the reason that the conditions are geographically almost the same, it might be contended with equal logic that if a spot could be found in Kentucky in which the geographical and climatic conditions were similar to those in Marin County, it would be permissible to go to Kentucky to ascertain a reasonable price to be charged for water at wholesale in Marin County. The contention of the water company that this method may be employed for the reason that the rates charged by the different water companies to which reference is made, establish an average price for water at wholesale in this vicinity, is based on the false analogy of the sale of commodities in a market in which they compete with one another. The

price charged for water by water company "A" is no criterion of the price to be charged by water company "B" if these water companies can not compete with one another and if they serve water in different communities.

It may further be suggested that the rates used by Mr. Rhodin to ascertain an average minimum wholesale rate for water in a number of instances include the very elements which Mr. Rhodin is trying to value. For instance, the rate of 20 cents charged by North Coast Water Company for water consumed in Belvedere must be presumed to include a return on the lands, water rights and water of North Coast Water Company, these being the very elements which Mr. Rhodin is trying to value. The same is true with reference to the rate established by this Commission for the San Jose Water Company, and a number of other rates referred to by Mr. Rhodin.

One of the most serious objections which must be made to Mr. Rhodin's method is the fact that his computations are based upon the cost of structures which have not been constructed, an estimate of operating and maintenance expenses which have not been incurred, an estimate for depreciation on structures which do not exist, and a calculation as to revenues which is based on mere conjecture with reference to the future population of Marin County, and which, when it comes to the San Geronimo dam, is dependent to a large degree on the consumption of water by children as yet unborn. Evidence of this character was before the Supreme Court of this State for its consideration in the case of *San Diego Land and Town Company vs. Neale*, 88 Cal. 50. In that case, in order to determine the value of land which the Land and Town Company was seeking to acquire for the purpose of flooding its reservoir, certain witnesses gave testimony based upon speculative improvements, increases in population, extension of water systems and profits which might result from the sale of water. In holding that this evidence should not have been received, the Supreme Court, at page 63, says:

"It clearly appears that the witnesses referred to based their estimate of the value of the property upon an anticipated investment of a large amount of money in an extensive system of water works, and founded their opinion largely upon hypothetical expenditures and receipts of money, and an increased demand for water; the court, too, adopted the same erroneous rules, and under its instructions the jury must have found such price as in the opinion of the witnesses the land might bring, or probably would bring at some future period, if plaintiff or another in its situation should extend the works as contemplated by the witnesses."

Again, at page 66, the court says:

"The condition of the property, the uses to which it may be put, having regard to the existing advantages for making a practical use

of the property, and such advantages as may be reasonably expected in the immediate future, are all matters for consideration in estimating the value of the lands (*Boom Co. vs. Patterson*, 98 U. S. 403); but to attempt to ascertain the value by estimating the cost of works necessary for its use for a particular purpose, the cost of operation, prospective sales and estimated profits, increased demands through growth of population, etc., requires 'a degree of refinement in the measure of values which seems to us totally incompatible with the gross estimates of common life. . . . The gross estimates of common life are all that the courts and juries have skill enough to use as a measure of value. All other measures are necessarily arbitrary and fanciful.' (*Searle vs. L. and B. B. R. R. Co.*, 33 Pa. St. 44.)"

Mr. Rhodin made no inquiries whatsoever with reference to the actual sale prices of land adaptable for the collection and storage of water in the vicinity of the water company's property in Marin County, nor did he consider the fact that the entire Lagunitas Dairy tract, when acquired in 1878, at which time it was just as valuable as it is at the present time for the purpose of catching and storing water, cost only \$20,500.00.

In 1872, the predecessor of the water company acquired for the sum of \$20,900.00 certain rights from the land owners on the lower portion of the Lagunitas River. The parcels of land with reference to which these rights were acquired are designated Parcels 3 to 15, inclusive, on water company's Exhibit "A" in this proceeding. From the owners of Parcels 4 to 14, inclusive, being S. P. Taylor, Pacific Powder Company, Omar Jewell, G. Cheda, Codoni & Cotta, J. Garcia, J. McM. Shafter, Mazza Brothers, M. Hilaria Garcia, Felipe S. Garcia, and M. Loretta Garcia, the predecessor of the water company acquired the right "to construct and maintain such dams, reservoirs and places of storage of water as they (Marin County Water Company) may deem proper, and to divert and appropriate said waters for the purposes and in the ways aforesaid forever." The deeds recite that the grantee "is desirous of diverting the waters of the streams called 'Lagunitas' and the 'Cataract Gulch,' their sources, branches and tributaries above the lands belonging to the said party of the first part, and to build and maintain such dams, reservoirs and places of storage of water as they may deem proper."

It would thus appear that from all these parties the predecessors of the water company acquired their riparian rights. These rights have been severed from the land of which they were formerly part and parcel and must now be separately valued. If the water company were now condemning these rights it would be obliged to pay the depreciation in the value of these respective parcels of land caused by the taking of the riparian right. *Hercules Water Company vs. Fernandez*,

5 Cal. App. 726, 91 Pac. 401; *Lee vs. Springfield Water Company*, 176 Pa. St. 223, 35 Atl. 184; *City of Syracuse vs. Stacey*, 169 N. Y. 231, 62 N. E. 354. From the Black estate, being the owner of Parcel 15, Marin County Water Company seems to have acquired the right to construct its dams at Phoenix Gulch and Lagunitas, but not the right to construct a dam at San Geronimo.

There is considerable disagreement between the parties as to the rights conferred in the deed from Adolph Mailliard. The deed reads in part as follows:

"Whereas, the said party of the first part is the owner of certain tracts of land in Marin County and State aforesaid, and through which or along which flows streams of water known as the Lagunitas and the San Geronimo or Paper Mill Creek, and the second party being a company duly incorporated under the laws of the State aforesaid for the purpose of supplying the cities, towns and inhabitants of Marin County with pure and fresh water, is desirous of diverting the waters of the streams called Lagunitas and the Cataract Gulch from their natural courses and of appropriating them for the purpose aforesaid by means of pipes and other suitable means, the waters to be taken from the beds of said Lagunitas and the Cataract Gulch, their sources, branches and tributaries above or along the land belonging as aforesaid to the said party of the first part, and to build, repair, reconstruct and maintain such dams, reservoirs and places of storage of said waters as they may deem proper.

"Now, therefore, this indenture witnesseth, that the party of the first part, for and in consideration of the sum of twelve hundred dollars in United States gold coin to him in hand paid by the second party, has and does hereby grant, bargain, sell and convey unto the said party of the second part, its successors and assigns, the right to construct and maintain dams, reservoirs and places of storage of water, and to divert and appropriate said waters for the purposes and in the way aforesaid forevermore."

If the proposed San Geronimo dam is constructed it will have to be built in part on the lands of Mailliard and in part on the Shafter-Howard lands. Entirely irrespective of the proper construction of the Mailliard deed, it is clear that before a dam can be constructed at San Geronimo the party undertaking such a project would be compelled to acquire from the Shafter-Howard people the site for by far the larger portion of the reservoir, as well as the right to divert the water riparian to the extreme westerly portion of the Shafter-Howard lands, and possibly also the riparian rights of the Black property. The water company at present owns no lands whatsoever at the proposed San Geronimo site, and the right only to build half a dam on the Mailliard property, if it owns that right. Based on the acquisition of lands and rights which the water company does not own, on the construction of a dam on which no money has as yet been expended, on the operation,

maintenance and depreciation of structures not yet erected, and on the sale of water to persons most of whom are as yet unborn, Mr. Rhodin estimates the rights of the water company, in connection with the San Geronimo project, to be worth at present \$168,600.00 and Mr. Wagoner \$436,620.00. Mr. Rhodin estimates that the construction of the San Geronimo dam would begin in 1930, and Mr. Wagoner places the initial construction subsequent to 1940. The valuations presented by these two engineers on practically the same theory not merely vary tremendously, but also show the remarkable conclusions to which the application of theories at times lead. The evidence shows that if the rights which the water company now owns in connection with the Lagunitas and Paper Mill creeks were being condemned today, they could be acquired for a relatively small amount of money, by reason of the fact that the detriment suffered by the lands of which those rights were formerly part and parcel would be very small.

The detriment would not be materially greater today than it was in 1871 and 1872, at the time of the original acquisition of these rights.

(b) *Urban real estate.*—Testimony concerning the value of scattered parcels of real estate located in or adjacent to the incorporated cities served by the water company and used for reservoir sites, storage and office lands and kindred purposes, was presented by the witnesses Baker and Courtright for the water district and Dodge, Croker and Ryan for the water company. The following table shows the estimates of these witnesses:

TABLE III.
Appraisal of Urban Real Estate.

| Item | Baker | Courtright | Dodge and Croker | J. T. Ryan |
|----------------------------------|--------------------|--------------------|--------------------|--------------------|
| Forbes Hill residence lots..... | \$8,600 00 | \$8,000 00 | \$3,000 00 | \$3,000 00 |
| Moore's Hill residence lots..... | 2,957 50 | 3,500 00 | 2,500 00 | 2,500 00 |
| Coleman residence lots | 17,700 00 | 12,000 00 | \$25,000 00 | 25,000 00 |
| San Quentin lot | 100 00 | 150 00 | | |
| Office and stable lots..... | 4,800 00 | 4,800 00 | 4,800 00 | 4,800 00 |
| Storage lot | 2,000 00 | 2,000 00 | 2,000 00 | 1,000 00 |
| Baltimore Park lots | 1,200 00 | 1,500 00 | 1,500 00 | 1,500 00 |
| Lagunitas Tract lot | 500 00 | 500 00 | 500 00 | 500 00 |
| Fairfax Tract lots | 625 00 | 1,000 00 | 900 00 | 900 00 |
| Totals | \$38,482 50 | \$33,450 00 | \$40,200 00 | \$39,200 00 |

¹Includes rights of way.

²Includes water.

(c) *Rights of way.*—William Barr, the water company's superintendent, presented an estimate of the value of the water company's rights of way totalling \$29,090.86. Whatever the order of presenting testimony may be, I assume that the burden of showing the value of the property sought to be condemned rests in the first instance on its owner. Lewis—Eminent Domain, third edition, sections 645 and 651. The testi-

mony of Mr. Barr seems to have been presented by the water company in accord with this usual rule and is the only evidence on this point. The valuation of rights of way such as those owned by the water company is at best a difficult matter, and the water company did the best it could in the premises without unreasonably prolonging the hearing in this proceeding.

3. Franchises and going concern.

The water company owns certain franchises for the laying of its mains and pipes in the public streets and highways, which franchises were granted by the State in perpetuity under the provisions of section 19 of article XI of the constitution of this State as it read at the time the mains and pipes were laid. The water company also owns the franchise of collecting rates or compensation for the use of the water supplied by it, as provided by section 2 of article XIV of the constitution of this State.

A separate value should not be assigned to franchise value or to going concern, but these elements of value, in so far as they exist, should be considered as enhancing the value of the utility's tangible properties: *Spring Valley Waterworks vs. City and County of San Francisco*, 192 Fed. 137, 167; *Brunswick and Topsham Water District vs. Maine Water Co.*, 99 Me. 371, 59 Atl. 537, 539.

In this proceeding, the witness Dockweiler testified on behalf of the water district that, in his opinion, the sum of \$100,000.00 would represent a reasonable allowance to be made for going concern value. The witness Rhodin, testifying for the water company, made an estimate based on the difference between the rate of interest paid by a utility in its earlier stages on money borrowed by it and the lower rate of interest for which it can later secure its funds. He concluded that there is a difference of $33\frac{1}{3}$ per cent, but in this proceeding estimated the going concern value by adding 20 per cent to the value of the properties of the water company used and useful, as estimated by him, the total amount thus estimated by him being \$303,135.00. He testified that he would not make this allowance in a rate case. He further testified that he would make a minimum allowance for this item of \$133,000.00, based on the cost of building up the business of the water company.

There is no element in public utility valuation as to which there is greater vagueness and confusion than this so-called going concern value. The courts recognize that some value ought to be added to a going concern over the bare bones of its physical structures, but they do not seem to be clear as to how much should be added or on what basis the amount to be added should be ascertained. The view now most frequently urged is that there should be added to the value of

the physical properties a reasonable sum representing the cost of actually building up the business. This amount includes the cost of securing the utility's customers and connecting them up with the plant, and at times an allowance for deficiency of return during the early years of the company's operations. Great care, however, must be exercised in making allowance for deficiencies of return lest the absurd conclusion be reached that the business which has been least profitable is most valuable. In any event, if an allowance is made for deficiencies during the early years of the utility's operations, such allowance should not extend beyond a reasonable time for building up the business of the company, if the properties have been planned and constructed with reasonably sound judgment in view of the locality in which the business is conducted and all the facts and circumstances surrounding its inception and prosecution.

In this connection, C. W. Gillespie, of the engineering firm of J. G. White & Company, presented an historical review of the finances of the water company showing, among other things, the cost of developing the business. This exhibit shows that during the years 1871 to 1878, the stockholders invested \$100,000.00 of their own money and borrowed \$100,000.00 by reason of the sale at a discount of 20 per cent of bonds bearing interest at the rate of 8 per cent per annum. No dividends were declared during these years, but the money earned in excess of operating and maintenance expenses was reinvested in the property. Mr. Gillespie testified that the water company made a profit of \$68,229.78 in the years 1871 to 1878, and also presented estimates showing how much money the water company would have been compelled to make in order to pay operating and maintenance expenses and 12 per cent on the investment. The earnings of \$68,229.78 were made on an investment of \$180,000.00, plus the sum reinvested from earnings. The water company declared a dividend of \$11,250.00 in 1879, a dividend of \$17,250.00 in 1880, and each year subsequent thereto has declared a dividend of \$18,000.00, being 3 per cent on the par value of the preferred stock and 6 per cent on its value as assumed at the time of its issue. In addition to declaring these dividends, the water company has accumulated a surplus during the years 1871 to 1913, inclusive, which is stated by Mr. Gillespie to be \$93,761.84.

The water company also presented a statement of the money which it claims to have expended on its property, together with the value of property donated to the water company and the estimated value of

paving laid by the public authorities. This statement appears in the following table:

TABLE IV.

| Moneys Expended, Property Donated and Pavement Over Mains. | |
|--|----------------|
| Real estate and construction charges----- | \$949,722 00 |
| Additional moneys which Mr. Gillespie believes were expended in construction but which can not be accounted for----- | 42,024 73 |
| Donated pipe to end of 1913----- | 26,762 00 |
| Donated pipe, 1914----- | 3,479 81 |
| Donated service connections----- | 17,504 00 |
| Donated hydrants----- | 4,673 00 |
| Donated sprinklers----- | 930 00 |
| Pavement over mains----- | 60,899 00 |
| Total----- | \$1,105,994 54 |

By subtracting the sum of \$60,899.00, which represents the estimated cost of paving, which the water company does not own and for which it expended nothing, we find a total of \$1,045,095.54 as representing the moneys claimed to have been expended by the water company on the properties now owned by it, plus the value of the property donated by others.

The sum of \$949,722.00 consists of \$735,337.20 derived from the sale of stock and bonds; \$93,761.84 expended on the property from earnings; \$38,300.71, which represents the value of pipe donated to the water company up to the end of the year 1908; \$15,830.14, which represents a portion of the value of pipe donated in the years 1909 to 1912, inclusive; \$40,287.06, being construction expenses included under the head of operating and maintenance expenses, plus certain additional items.

As the property donated to the water company now belongs to it, the water company is, of course, entitled to have this property valued in this proceeding.

In this opinion I have stated only a portion of the testimony presented. Nevertheless, all the testimony presented, including all the exhibits, has been carefully considered and to each part of the testimony has been accorded the weight to which it seems entitled. I have been materially assisted by the able and elaborate briefs presented by counsel for both sides.

I recommend the following findings:

FINDINGS.

Marin Municipal Water District, a municipal water district, incorporated under the laws of the State of California, having filed with the Railroad Commission a petition setting forth the intention of said municipal water district to acquire under eminent domain proceedings, or otherwise, the lands, property and rights of Marin Water and Power Company, a public utility operating within the boundaries of said

municipal water district, and asking the Railroad Commission to fix and determine the just compensation to be paid to Marin Water and Power Company for the public utility and land, property and rights thereof; and public hearings having been held, and Marin Municipal Water District and Marin Water and Power Company having been accorded full opportunity to present such evidence as they might desire to submit, and each of said parties having taken full advantage of said opportunity and having presented all the evidence which each party desired to present, and the commissioner who heard the evidence having made a personal inspection of the lands and property of said Marin Water and Power Company, and being fully apprised in the premises,

The Railroad Commission hereby finds as a fact that the just compensation to be paid by Marin Municipal Water District to Marin Water and Power Company for all of said company's lands, property and rights, other than the right to be a corporation, is the sum of one million two hundred thousand one hundred and fifty dollars (\$1,200,150.00). The lands, property and rights of Marin Water and Power Company, for which said compensation is hereby fixed and determined as just and reasonable, are described in the schedule which is hereto attached, marked "Exhibit A," and made a part of these findings.

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of April, 1915.

EXHIBIT "A."

Schedule "A."

First—All those certain lots, tracts and parcels of land situate, lying and being in the county of Marin, State of California, and more particularly bounded and described as follows, to wit:

Beginning at a post marked PQ109 and H11, which said post is the common corner of the Rancho Cañada de Herrera, the Rancho Punta de Quentin and the Rancho Tomales y Baulines, and running from said point of beginning on the dividing line between the said Rancho Punta de Quentin and the said Rancho Cañada de Herrera north $83\frac{1}{2}$ degrees east twenty (20) chains to a post marked LDT2 in a stone mound in said boundary line; thence leaving said boundary line south $64\frac{1}{4}$ degrees east twenty-one (21) chains to a live oak tree four (4) feet in diameter marked LDT3; thence south 64 degrees east ten (10) chains to a redwood tree five (5) feet in diameter marked LDT4; south $55\frac{1}{2}$ degrees east four (4) chains to a live oak tree two (2) feet in diameter marked LDT5; south $63\frac{1}{2}$ degrees east four and 70-100 (4.70) chains to a post in a stone mound marked LDT6; north $70\frac{3}{4}$ degrees east six (6) chains

to a post marked LDT7 in a stone mound on a grassy spur; thence south $65\frac{1}{4}$ degrees east to the most southeasterly corner of a tract of land belonging to Lucy I. Jory, said corner being located on the westerly side of that certain right of way granted by William J. Miller to the county of Marin by deed dated February 7, 1884, and recorded in the office of the county recorder of said county of Marin in Liber "Z" of Deeds at page 510; thence following the westerly line of said right of way and the easterly line of said lands of Lucy I. Jory, as the same are set forth and described in said deed last above referred to until they intersect the boundary line between the Rancho Cañada de Herrera and the Rancho Punta de Quentin hereinabove mentioned; thence following said boundary line between said Rancho Punta de Quentin and the Rancho Cañada de Herrera north $83\frac{1}{4}$ degrees east to the most northeasterly corner of what is known as the "Hippolyte ranch," said point being located thereon one hundred and forty-eight and 20-100 (148.20) chains north $83\frac{1}{4}$ degrees east from said post marked LDT2 hereinabove referred to; thence leaving the boundary line of said Rancho Punta de Quentin and running along the easterly boundary line of the said Hippolyte ranch south $45\frac{3}{4}$ degrees east twenty-three and 80-100 (23.80) chains; south $18\frac{1}{2}$ degrees west six (6) chains; south 13 degrees west three (3) chains; south $16\frac{3}{4}$ degrees east thirteen and 20-100 (13.20) chains; south $46\frac{1}{4}$ degrees west twelve and 50-100 (12.50) chains; south $\frac{1}{2}$ degree west ten (10) chains more or less to the most northwesterly corner of that certain tract of land which was conveyed by Annie S. E. Worn and George A. Worn, her husband, to the Marin County Water Company by deed dated March 12, 1881, and recorded in the office of the county recorder of said Marin County in Liber "V" of Deeds at page 357; thence leaving the boundary line of said Hippolyte ranch and running along the northerly boundary line of the tract of land so conveyed as last aforesaid, south $79\frac{1}{4}$ degrees east twenty-five (25) chains to an oak tree marked AD4, being the northwest corner of the lands formerly belonging to Albert Dibblee; running thence south $16\frac{3}{4}$ degrees west fifteen and forty one-hundredths (15.40) chains; south $39\frac{1}{4}$ degrees east twenty-four (24) chains and south 67 degrees east fourteen (14) chains to a post marked AD7 at the most southwesterly corner of said lands formerly belonging to said Albert Dibblee; thence following along the Lagunitas road north 2 degrees east five (5) chains and seventy (70) links; north 27 degrees 30 minutes east seven (7) chains; north 18 degrees 30 minutes east three (3) chains; north 62 degrees 15 minutes east three (3) chains seventy (70) links; north 83 degrees 45 minutes east one (1) chain forty-five (45) links to the westerly line of the Redwood tract, so-called; thence along said westerly line of said Redwood tract south 0 degrees 45 minutes east thirty (30) chains fifty-four (54) links to a redwood tree thirty-six (36) inches in diameter at the

northwest corner of the Cooper House tract; thence south 0 degrees 13 minutes west two thousand one hundred and forty-seven (2,147) feet; south 34 degrees 35 minutes west two hundred and ninety-six and two tenths (296.2) feet; south 18 degrees 52 minutes west two hundred and seventeen (217) feet; south 0 degrees 02 minutes west one hundred and seventy-eight and four tenths (178.4) feet; south 22 degrees 21 minutes east one hundred and twenty-one and eight tenths (121.8) feet; south 21 degrees 45 minutes east four hundred and sixty-nine and six tenths (469.6) feet; south 19 degrees 11 minutes east five hundred and twenty-nine and nine tenths (529.9) feet; south 13 degrees 06 minutes west three hundred and eleven (311) feet; south 50 degrees 52 minutes east four hundred and nineteen and two tenths (419.2) feet; south 13 degrees 27 minutes east three hundred and forty-three (343) feet; south 30 degrees 01 minutes east two hundred and ten and four tenths (210.4) feet; south 64 degrees 29 minutes east three hundred and forty-six and five tenths (346.5) feet; south 12 degrees 20 minutes east three hundred and ten and five tenths (310.5) feet; south 50 degrees 08 minutes east one hundred and fifty-six and seven tenths (156.7) feet; south 17 degrees 38 minutes east six hundred and six and four tenths (606.4) feet; south 29 degrees 11 minutes west two hundred and twenty-six and six tenths (226.6) feet; south 1 degree 38 minutes east three hundred and eleven and seven tenths (311.7) feet; south 19 degrees 45 minutes west three hundred and eighty-six and four tenths (386.4) feet; south 5 degrees 07 minutes east two hundred and fifty (250) feet; south 20 degrees 57 minutes west two hundred and seventy-seven and six tenths (277.6) feet; south 40 degrees 55 minutes west one hundred and thirty-six and seven tenths (136.7) feet to a post marked PQ106, being station 106 of the final and official survey of the Rancho Punta de Quentin; running thence along the boundary line of the said Rancho Punta de Quentin north 67 degrees 07 minutes west three thousand seven hundred and twenty-nine and 0-10 (3,729.0) feet to an unmarked post at the southeast corner of the Fish Gulch tract; thence along the southerly boundary line of said Fish Gulch tract north 85 degrees 30 minutes west five thousand three hundred and twenty-nine and fifty one-hundredths (5,329.50) feet to an unmarked post; thence north 39 degrees 30 minutes west seven hundred and sixty-four and ninety-four one-hundredths (764.94) feet to an unmarked post; thence north 20 degrees 0 minutes east one thousand three hundred and twenty and 0-100 (1,320.00) feet to an unmarked post on the boundary line of the Rancho Punta de Quentin, being the northerly corner of said Fish Gulch tract; thence following the said boundary line of the said Rancho Punta de Quentin north 67 degrees 07 minutes west three thousand four hundred and sixty-five and 0-10 (3,465.0) feet to a post marked PQ107TB; thence north 34 degrees 0 minutes west six thousand one

hundred and forty-four and six tenths (6,144.6) feet to post marked PQ108; and thence north 1 degree 45 minutes west three thousand seven hundred and ninety-five and 0-100 (3,795.00) feet to the said post marked PQ109H11, and the point of beginning, and containing within said boundaries the Lagunitas Dairy tract, the Hippolyte ranch, the Bald Hill tract, Phoenix Lake tract, Bill Williams' Gulch tract, Lagunitas Lake lands and the Fish Gulch tract of the Marin Water and Power Company, together with all rights appurtenant to said Lagunitas Lake or Lagunitas Dairy tract lands or the Fish Gulch tract lands, or otherwise acquired by the Marin Water and Power Company through its predecessors in interest, to develop water and receive the flow of the same from the adjoining lands of the Rancho Tomales y Baulines, acquired under a certain deed from Oscar L. Shafter, James McL. Shafter and Charles Webb Howard to the Marin County Water Company, dated September 15, 1871, and recorded in the office of the county recorder of said Marin County in Liber "L" of Deeds at page 84.

Second.—All that certain tract of land in the city of San Rafael, county of Marin, State of California, described as follows, to wit:

Beginning at a point in the westerly line of the land of Matilda C. Moore where the fence dividing the lands of the Shorts from the lands of I. Jessup connects with the fence on said land of said Moore; thence running north $14\frac{1}{2}$ degrees east 182.4 feet along said westerly line; thence south $68\frac{1}{2}$ degrees east 340 feet; thence south $14\frac{1}{2}$ degrees west 154.7 feet; thence south 83 degrees 24 minutes west 225 feet; thence north $68\frac{1}{2}$ degrees west 88.4 feet; thence north $14\frac{1}{2}$ degrees east 80 feet, and thence north $68\frac{1}{2}$ degrees west 40 feet to the place of beginning, together with a right of way for the use of persons on foot and on horseback, and with wagons and vehicles of every description, passing to and from the land above described over the following strip of land, and the whole thereof, to wit:

Beginning at the southeast corner of the tract of land above described, running thence north $68\frac{1}{2}$ degrees west and parallel with the southerly line of the land of Matilda C. Moore 300 feet, thence north $14\frac{1}{2}$ degrees east 80 feet, said last line being parallel with the westerly line of the land of said Matilda C. Moore; thence north $68\frac{1}{2}$ degrees west 40 feet; thence south $14\frac{1}{2}$ degrees west along the said westerly line of the land of said Matilda C. Moore 125 feet, to the southwest corner of the land of Matilda C. Moore; thence along the southerly line of the land of Matilda C. Moore south $68\frac{1}{2}$ degrees east 340 feet; thence north $14\frac{1}{2}$ degrees east 45 feet to the place of beginning.

Third.—All those certain lots, pieces or parcels of land situate, lying and being in the city of San Rafael, State of California, particularly described as follows, to wit:

First—Commencing at a stake driven at the point of intersection of the center line of Fourth street with the westerly corporate limit line of the said city of San Rafael and running thence south 79 degrees and eight minutes east along the said line of Fourth street 535.9 feet, thence north 12 degrees and 27 minutes east 423 feet, thence north 20 degrees and 51 minutes east 607.1 feet to the southwesterly corner of the tract intended to be described hereby and running thence north 17 degrees 24 minutes east 290.4 feet, thence south 72 degrees and 36 minutes east 600 feet, thence south 17 degrees and 24 minutes west 290.4 feet and thence north 72 degrees and 36 minutes west 600 feet to the point of commencement of the fourth course hereinbefore given, being the southwesterly corner of the tract hereinbefore described and containing four (4) acres of land.

Second—Commencing at a point in the northerly line of the tract of land hereinbefore described distant south 72 degrees and 36 minutes east 218 feet from the northwesterly corner of the said tract firstly herein described and running thence north 37 degrees and 2 minutes east 610 feet more or less to the southerly line of Culloden avenue, thence southeasterly along said southerly line of Culloden avenue 12 feet, thence south 37 degrees and 2 minutes west 610 feet more or less to the said northerly line of the tract of land herein firstly described and thence north 72 degrees and 36 minutes west along said line 12 feet to the point of commencement, being a strip of land 12 feet wide by about 610 feet long connecting said 4-acre tract hereinbefore described with Culloden avenue.

Third—Commencing at the southwesterly corner of the 4-acre tract of land hereinbefore described and running thence south 20 degrees and 51 minutes west 607 feet more or less to the northerly line of a certain street or roadway now open and which was laid out by the late Alexander Forbes across his land lying between Fourth street and Culloden avenue in said San Rafael, and which road extended in a northeasterly direction across said lands from a point in the northerly line of said Fourth street distant about 536 feet southeasterly thereon from the point where said northerly line of Fourth street intersects the present westerly boundary line of the city of San Rafael; thence easterly along the northerly line of said roadway to a point from which if a line be drawn at right angles to the first course herein the distance thereon will be 12 feet, thence north 20 degrees and 51 minutes east and in a course parallel with the first course herein 607 feet more or less to the southerly line of the 4-acre tract firstly described, and thence westerly along the said southerly line of said 4-acre tract 12 feet to the point of beginning; being a strip of land 12 feet wide by about 600 feet long extending from the 4-acre tract firstly described to the

northerly line of said road laid out by the said Alexander Forbes, now deceased.

Also the right of way at all times hereafter along, through and over a certain roadway extending from the north side of Fourth street to the strip of land thirdly above described for the purpose of laying down and maintaining water pipes therein and of passing and repassing along and over so much thereof with horses, wagons, men and materials as may be necessary for maintaining and repairing reservoirs, pipes and other improvements upon the land hereby described, and such other improvements thereon as the purposes of the water works system may hereafter require.

Fourth.—All that certain lot or parcel of land located in the city of San Rafael, county of Marin, State of California, and described as follows, to wit:

Beginning at a point in the southerly line of Fifth street 100 feet easterly from the corner formed by the intersection of the easterly line of "B" street with the southerly line of Fifth street; running thence southerly at right angles to Fifth street 130 feet to the northerly line of an alley; thence easterly along the northerly line of said alley 80 feet; thence northerly parallel with "B" street 130 feet to the southerly line of Fifth street; and thence westerly along said line of Fifth street 80 feet to the point of beginning.

Fifth.—All that certain lot and parcel of land situate, lying and being in the city of San Rafael, county of Marin, State of California, and bounded and particularly described as follows:

Beginning at a point on the northerly line of Second street distant one hundred (100) feet westerly from the northwest corner of Second street and Tamalpais avenue, thence northerly and parallel with Tamalpais avenue one hundred and ten (110) feet, thence westerly and parallel with Third street one hundred and ninety-five (195) feet to a point on the easterly line of Petaluma avenue, distant one hundred and forty (140) feet southerly from the southerly line of Third street; thence southerly along the easterly line of Petaluma avenue forty-three and 8-10 (43 8-10) feet to the northerly line of the Tunrpike road; thence southeasterly along said northerly line of the Tunrpike road one hundred and fifty-two (152) feet to the northerly line of Second street; thence easterly along said northerly line of Second street fifty-seven (57) feet to the point of beginning.

Sixth.—All that piece of land situate at San Quentin in the county of Marin, State of California, described as follows:

Beginning at the northeasterly corner of the one-acre lot of ground conveyed by David Porter to the State of California by deed dated the 15th day of February, 1879, recorded in the office of the county

recorder of said county of Marin, in Liber "T" of Deeds, page 210, thence running by the true meridian (the magnetic variation being 16 degrees 35 minutes east) south 65 degrees east 200 feet to the northerly line of the state prison grounds, thence along said northerly line south $87\frac{1}{4}$ degrees west 87 feet, thence north $75\frac{1}{4}$ degrees west 108 feet to the southeasterly corner of said one-acre lot; and thence north $4\frac{1}{2}$ degrees east along the easterly line of said one-acre lot 73 feet to the place of beginning; containing about one eighth of an acre of land. And also the right of way in and along which to lay and maintain water pipes for the purpose of supplying water to the houses or buildings now erected or hereinafter to be erected on the land heretofore owned by said Porter adjacent to and lying between the state prison grounds at Point San Quentin, the bay of San Francisco and the lands of William T. Coleman, which line is as follows:

Beginning at an oak tree north 50 degrees east 22 feet distant from the northeasterly corner of the small reservoir built upon the lot of ground hereinabove described; thence by the true meridian (the magnetic variation being as above stated) north $64\frac{1}{2}$ degrees east 245 feet to an oak tree 2 feet in diameter; thence north 87 degrees east 90 feet to a stake; thence north 61 degrees east 95 feet to a stake on a rocky point; thence south 87 degrees east 111 feet to a buckeye tree; thence north $80\frac{1}{2}$ degrees east 839 feet to a stake alongside of a bunch of rocks; thence south $77\frac{1}{2}$ degrees east 700 feet to a point in the center of the county road in front of Mrs. Buckalew's stable and at the west end of the causeway leading to the steamer landing at Point San Quentin. The right of way hereby described may be exercised and used within 10 feet of said described line, as may be necessary in order to make proper turns in the pipe at such point where one of above courses meets another course, and shall include only so much ground as may be covered by the pipe, and such right of way shall include the right to repair and relay such pipe when necessary and to enter upon said premises for such purposes and for examination; also a piece of ground fifty feet square at the place where the above-described course north $80\frac{1}{2}$ degrees east meets the course south $77\frac{1}{2}$ degrees east, to be used for the erection of a distributing reservoir.

Seventh.—The lot of ground in the said town of San Rafael beginning at the southwest corner of the lot known as the McCrea 10-acre lot, thence running by the true meridian along the westerly line of said McCrea lot north 14 degrees 45 minutes east 4.54 chains, thence ascending the easterly slope of the hill known as the San Rafael Hill and along a line north 75 degrees west 13.80 chains, thence descending the southerly slope of said hill along another line of fence south 4 degrees 45 minutes west 528 feet to the northerly line of that lot 25 feet square known as Smith's spring lot; thence running north

86 degrees 30 minutes east 10 feet to the northeasterly corner of said spring lot; thence south 3 degrees 30 minutes east 25 feet to the southeast corner of said spring lot; thence south 86 degrees 30 minutes west along the south line of said lot 13 feet to a continuation of the line of fence last above mentioned; thence south 4 degrees 55 minutes west along the line of land formerly owned by S. P. Taylor to a point distant on said last named course 342 feet from the northerly line of Sixth street; thence south 84 degrees 30 minutes east 301 feet to the westerly line of land known as the Saunders 17-acre tract; thence along said last named line north 7 degrees 15 minutes east to the northwest corner of said 17-acre lot and to a wire fence at said corner; thence along said wire fence and on the north line of said 17-acre lot north 81 degrees 30 minutes east 130 feet, south 71 degrees 15 minutes east 385 feet to the southwest corner of a lot known as the Saunders 1-acre lot; and thence along the westerly line of said 1-acre lot north 18 degrees 45 minutes east 200 feet to the place of beginning, magnetic variation being $16\frac{1}{2}$ degrees east.

Also the right of way at all times hereafter along, through and over a strip of ground 10 feet in width extending from the northerly line of Sixth street aforesaid along the westerly line of said Saunders 17-acre lot to the most southerly line of the land hereby described (the ten feet herein mentioned being the most easterly ten feet of the lot of ground conveyed by William T. Coleman to Carrie M. P. Coleman by deed dated June 1, 1874, recorded in the recorder's office in Liber "Q" of Deeds, page 370, Marin County Records), for the purpose of laying down and maintaining water pipes therein and of passing and repassing over and along so much thereof with horses, wagons, men and materials as lies between the southerly line of Laurel avenue and the land hereby described, as may be necessary, for maintaining and repairing the reservoirs, springs, pipes and improvements upon the land hereby described, and such other improvements thereon as the purpose of the water works system may hereafter require.

Eighth.—Beginning at a point in the wire fence which divides the lands of Wm. T. Coleman from Saunders' 17-acre tract distant 200 feet in a northeasterly direction from northwest corner of said tract thence north 18 degrees 45 minutes east about 600 feet to the fence dividing lands of said Coleman from lands of Alexander Forbes; thence along said fence in a northwesterly direction 300 feet; thence south 4 degrees 45 minutes west to the line of wire fence first mentioned and thence in a northeasterly direction along said fence to the point of beginning.

Ninth.—All that certain lot and parcel of land situate, lying and being in the county of Marin, State of California, and bounded and particularly described as follows:

Being lots numbers sixty-six (66) and sixty-seven (67) as per map of Fairfax tract filed on the eighth day of April, 1908, in Map Book No. two (2), page 114, in the office of the county recorder of the county of Marin, State of California.

Tenth.—All that certain lot and parcel of land situate, lying and being in the county of Marin, State of California, and bounded and particularly described as follows:

Lots eleven (11) and twelve (12) in Block "D" as said lots and block are laid down, designated and delineated on the map of Baltimore Park dated July 9, 1907, filed and recorded in the office of the county recorder of the county of Marin, State of California, in Book Two (2) of Maps, at page 90.

Eleventh.—All that certain lot and parcel of land situate, lying and being in the Lagunitas tract, county of Marin, State of California, and bounded and particularly described as follows:

Lot number eighty (80) as shown and designated on the "Map of the Lagunitas Tract, Subdivision Three, portion of the Mailliard Estate Rancho, San Geronimo, Marin County, Cal.," filed in the office of the recorder of Marin County, State of California, on the 28th day of June, A. D. 1905, in Map Book 2, page 26.

Twelfth.—Also all the waters, water rights, water privileges, rights of way, easements, franchises, reservoir sites, reservoirs, pipes, flumes, aqueducts, mains, service pipes, fittings, connections, pumping plants, riparian rights, leasehold rights, distributing plants, storage plants, filter and straining plants, stables, shops, storehouses, buildings, improvements and other property, real or mixed, now owned or controlled by the Marin Water and Power Company, together with all and singular the tenements, hereditaments and appurtenances belonging to the properties or any thereof, hereinbefore described or intended so to be or in any wise appertaining thereto, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, with all the right, title, interest, estate, property, possession, claim or demand in law or in equity of the Marin Water and Power Company of, in or to the same, or any and every part and parcel thereof with the appurtenances.

The structural and physical properties other than land and the water rights referred to in the preceding paragraph are more particularly described as follows:

1. General structures consisting of office building, garage, stables, workshop and shed upon the property "fourth" described in said schedule A, in the city of San Rafael, together with storage building situated on the storage or pipe lot, which is "fifth" described in said schedule A.

2. Miscellaneous equipment consisting of tools and appliances, materials and supplies on hand, furniture and office fixtures, and a private telephone line; also all maps, map books, block books, records, pipe lists, inventories and all data and equipment pertaining to the construction and operation of the water plant of said Marin Water and Power Company which is the result of the surveying, planning or other office work which was necessary for or actually engaged in the construction and maintenance of said work.

3. A collection system, consisting of the following:

(a) Lake Lagunitas reservoir, located upon the parcel of land "first" in said schedule A described, with the following appurtenances: An earthen dam with a spillway and 1,621 feet of 3-inch siphon pipe, on which are ten 3-inch gate valves, two 2-inch gate valves and four 1-inch air valves and an auxiliary flume with 95 feet of 6-inch riveted pipe.

(b) Phoenix Gulch reservoir, with the following appurtenances: An earthen dam with spillway and 390 feet of 30-inch cast iron (c) outlet pipe and valve tower and appliances.

(c) Bill Williams dam with spillway; 40 feet of 3-inch screw pipe, and 32 feet of 12-inch cast iron pipe.

(d) Swede George dam with 20 feet of 12-inch screw pipe.

(e) Worn Spring pipe line, consisting of 400 feet of 6-inch casing and 150 feet of 10-inch by 12-inch redwood flume.

(f) Lagunitas pumping plant, consisting of the following: Fairbanks-Morse horizontal gas engine, 25 horsepower 8-inch Price centrifugal pump; 60 feet of 8-inch flange pipe; 80 feet of 10-inch screw pipe, one 8-inch gate valve and auxiliary flume.

(g) Lower pumping plant at Phoenix Gulch, consisting of the following: Fairbanks-Morse 4½-inch by 10-inch pump; Fairbanks-Morse gas engine, 25 horsepower, portable, with fittings; 120 feet of 4-inch screw pipe; 477 feet of 3-inch screw pipe; 30 feet 6-inch drains; 500 feet of ½-inch galvanized gas pipe and a concrete sump, in which there is 260 feet of 3-inch screw pipe.

(h) The following buildings: At the Marshall place: dwelling, barn, milkhouse and bunkhouse; at Deer Park: barn and corral; at Tamalpais dam: cement shed, cabin and stable; at Bon Tempe ranch: dwelling and three bunkhouses; at Lagunitas dam: pump-house, bunkhouse, woodshed, chicken-house, cellar, cottage, storehouse, old barn and dwelling; at Phoenix dam: pumping station, lower pump-house, cabin, bunkhouse, cookhouse, dwelling, gasoline shed, garage, bunkhouse, stable and shed, barn and chicken-house and a fire protection system; at Porteous place: a two-story residence, woodshed, stable, chicken-house, hunting lodge, rough log cabin, winery and fire protection for same.

(i) The following roads and trails: Old Fish grade (abandoned), 3,530 feet; 5,300 feet of road from North Gate to foot of Fish grade; 9,410 feet of road from foot of Fish grade to Bon Tempe; old county road, 8,150 feet; 6,500 feet of road Tamalpais dam to Lagunitas dam; new Fish grade, 5,900 feet; road to Deer Park, 3,900 feet; Eldridge grade, 14,500 feet; road around Phoenix Lake 2,300 feet; trail at Phoenix Lake, 2,300 feet; road around Lagunitas Lake, 800 feet.

(j) The following border fences: 31,544 feet of Elwood fences; 24,619 feet of barbed wire fencing; 5,843 feet of barbed wire fencing with rail.

(k) The following pasture fences: 186 feet of split redwood picket fence; 1,380 feet of pine board fencing; 6,505 feet of barbed wire fence with rail; 17,799 feet of barbed wire fence.

4. *A Transmission System*, which includes the following:

(a) The Sausalito pipe line, consisting of: a wooden hopper 14 feet 3 inches by 12 feet by 10 feet with appurtenances; 854 feet of 10-inch screw pipe; one 10-inch gate valve; 60 feet of 2-inch black pipe; 30,477 feet of 18-inch converse pipe, $\frac{1}{4}$ inch thick; 1,642 feet of 18-inch converse pipe $\frac{3}{8}$ inch thick, with trestles; seven 18-inch heavy geared valves; 437 feet of tunnel; 1,824 feet of 16-inch cast iron pipe, class D; one 16-inch geared valve; 32,290 feet of 12-inch cast iron pipe, class D, with trestles; ten 12-inch geared valves; connection to Northwestern Pacific Railway shops, including 200 feet of 6-inch standard screw pipe and one 6-inch gate valve; connection to the Ferry Building at Sausalito, including 125 feet of 4-inch cast iron pipe; one 4-inch gate valve; connection to Fort Baker; 12 feet of 6-inch screw casing; 276 feet of 6-inch standard screw pipe; 182 feet of 6-inch converse pipe; four 6-inch gate valves; meter house; meter house at Sausalito.

(b) The Lagunitas pipe line, consisting of 26,083 feet 12-inch kalamined pipe, with trestles; twenty-one 12-inch heavy gate valves; 20 feet 2-inch black pipe; an aerator; a screen house; 404 feet of 12-inch No. 11 riveted pipe; a flume from dam to aerator.

(c) The Swede George pipe line, consisting of: 16,870 feet 6-inch converse pipe; two 6-inch gate valves; 1,185 feet of 4-inch screw pipe; seven 1-inch air valves.

(d) The Bill Williams pipe line, consisting of: 4,225 feet of 6-inch casing; one 6-inch gate valve; 3,137 feet of 4-inch converse pipe; one 4-inch gate valve.

(e) The San Quentin pipe line, consisting of: 1,342 feet of 6-inch converse pipe; two 6-inch gate valves; 18,301 feet of 5-inch converse pipe; one 5-inch gate valve; 200 feet of 4-inch screw pipe; one 4-inch gate valve; one $\frac{3}{4}$ -inch air valve; four $\frac{1}{2}$ -inch air valves, and two 1-inch blowoffs.

(f) Phoenix Lake pumping plant, consisting of: two Fairbanks-Morse duplex power pumps 10-inch by 12-inch; two Fairbanks-Morse 60 horsepower engines (1902); one 5-inch Price pump, also fittings; incline tramway; gasoline tank; discharge pipe and 1,700 feet of 8-inch screw pipe.

5. *A Distribution System*, which includes the following:

(a) The Forbes Hill reservoir, with appurtenances, namely: one 12-inch inlet valve; 71 feet of 8-inch cast iron pipe; 754 feet of 8-inch riveted pipe; one 8-inch gate valve; 71 feet 16-inch cast iron pipe; 1,543 feet 12-inch converse pipe; one 12-inch Garrett valve; 656 feet of 10-inch converse pipe, with one 10-inch Eddy valve.

(b) The Moore Hill reservoir, with appurtenances as follows: 286 feet of 8-inch riveted pipe, with one 4-inch Coffin gate valve; 370 feet 8-inch cast iron pipe, with one 8-inch Coffin valve.

(c) The Coleman reservoir, with appurtenances as follows: 400 feet 3-inch black screw pipe; 438 feet of 3-inch black screw pipe with one 3-inch valve with float; 463 feet of black screw pipe with one 4-inch Garrett valve; also all wells and springs connected to the reservoir by the following pipe: 79 feet of 4-inch casing; 167 feet of 2½-inch casing; 60 feet of 3-inch screw pipe; 618 feet of 2-inch screw pipe.

(d) The San Rafael distributing mains, consisting of the following: pipe, valves, meters, services, fire hydrants, connections and sprinkling standards.

| | |
|-------------|--|
| 911 feet | ¾-inch wrought iron pipe. |
| 2,957 feet | 1 -inch wrought iron pipe. |
| 1,602 feet | 1¼-inch wrought iron pipe. |
| 7,346 feet | 1½-inch wrought iron pipe. |
| 7,284 feet | 2 -inch wrought iron pipe. |
| 14,446 feet | 3 -inch wrought iron pipe. |
| 27,011 feet | 4 -inch wrought iron pipe. |
| 5,987 feet | 6 -inch casing. |
| 8,740 feet | 10 -inch casing. |
| 8,456 feet | 3 -inch cast iron pipe. |
| 6,163 feet | 4 -inch cast iron pipe. |
| 1,025 feet | 6 -inch cast iron pipe. |
| 4,126 feet | 8 -inch cast iron pipe. |
| 1,045 feet | 10 -inch cast iron pipe. |
| 400 feet | 4 -inch lock joint converse. |
| 575 feet | 5 -inch lock joint converse. |
| 9,395 feet | 6 -inch lock joint converse. |
| 4,230 feet | 10 -inch lock joint converse. |
| 31 | 3 -inch gate valves, iron bodies, hub ends. |
| 171 | 4 -inch gate valves, iron bodies, hub ends. |
| 3 | 5 -inch gate valves, iron bodies, hub ends. |
| 47 | 6 -inch gate valves, iron bodies, hub ends. |
| 5 | 8 -inch gate valves, iron bodies, hub ends. |
| 20 | 10 -inch gate valves, iron bodies, hub ends. |
| 6 | 1 -inch brass screw valves. |
| 11 | 1½-inch brass screw valves. |
| 19 | 2 -inch brass screw valves. |

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| 40 | $\frac{5}{8}$ -inch wash meters. |
| 21 | $\frac{5}{8}$ -inch Trident meters. |
| 7 | $\frac{5}{8}$ -inch Lambert meters. |
| 126 | $\frac{5}{8}$ -inch Keystone meters. |
| 174 | $\frac{5}{8}$ -inch Crown meters. |
| 363 | $\frac{5}{8}$ -inch Empire meters. |
| 6 | $\frac{3}{4}$ -inch Empire meters. |
| 10 | $\frac{3}{4}$ -inch Crown meters. |
| 2 | 1 -inch Trident meters. |
| 2 | 1 -inch Empire meters. |
| 1 | 1 -inch Crown meter. |
| 1 | 2 -inch Empire meter. |
| 1 | 2 -inch Gen meter. |
| 1,481 | $\frac{1}{2}$ -inch services. |
| 113 | $\frac{3}{4}$ -inch services. |
| 15 | 1 -inch services. |
| 1 | 1 $\frac{1}{2}$ -inch service. |
| 8 | 2 -inch services. |
| 108 | 4 -inch hydrant connections. |
| 15 | 1 $\frac{1}{2}$ -inch sprinkling standards. |

(e) The San Anselmo distributing main, consisting of the following pipe, valves, meters, services, fire hydrant connections and sprinkling standards:

| | |
|-------------|---|
| 230 feet | 1 -inch wrought iron pipe. |
| 9,036 feet | 2 -inch wrought iron pipe. |
| 2,478 feet | 3 -inch wrought iron pipe. |
| 26,957 feet | 4 -inch wrought iron pipe. |
| 2,943 feet | 6 -inch wrought iron pipe. |
| 999 feet | 6 -inch casing pipe. |
| 2,252 feet | 4 -inch cast iron pipe. |
| 1,429 feet | 6 -inch converse pipe. |
| 6 | 3 -inch gate valves, iron body, hub end. |
| 111 | 4 -inch gate valves, iron body, hub end. |
| 16 | 6 -inch gate valves, iron body, hub end. |
| 15 | 2 -inch brass screw valves. |
| 18 | $\frac{5}{8}$ -inch wash meters. |
| 3 | $\frac{5}{8}$ -inch Trident meters. |
| 46 | $\frac{5}{8}$ -inch Keystone meters. |
| 52 | $\frac{5}{8}$ -inch Crown meters. |
| 1 | 1 -inch Crown meter. |
| 12 | $\frac{5}{8}$ -inch Empire meters. |
| 1 | $\frac{3}{4}$ -inch Empire meter. |
| 826 | $\frac{1}{2}$ -inch services. |
| 1 | $\frac{1}{2}$ -inch service. |
| 3 | 1 -inch services. |
| 1 | 3 -inch service. |
| 31 | 4 -inch hydrant connections. |
| 11 | 1 $\frac{1}{2}$ -inch sprinkling standards. |

(f) Ross distributing mains, consisting of the following pipe, valves, meters, services, fire hydrant connections and sprinkling standards:

| | |
|-------------|----------------------------|
| 413 feet | 1 -inch wrought iron pipe. |
| 1,689 feet | 2 -inch wrought iron pipe. |
| 794 feet | 3 -inch wrought iron pipe. |
| 30,599 feet | 4 -inch wrought iron pipe. |
| 5,079 feet | 6 -inch wrought iron pipe. |

| | |
|------------|--|
| 870 feet | 4 -inch cast iron. |
| 3,820 feet | 4 -inch converse pipe. |
| 1 | 3 -inch gate valve, iron body, hub end. |
| 74 | 4 -inch gate valves, iron body, hub end. |
| 12 | 6 -inch gate valves, iron body, hub end. |
| 1 | 1 -inch gate valve, brass. |
| 1 | 1½-inch gate valve, brass. |
| 6 | 2 -inch gate valves, brass. |
| 2 | ½-inch wash meters. |
| 2 | ½-inch Trident meters. |
| 4 | ½-inch Lambert meters. |
| 37 | ½-inch Keystone meters. |
| 32 | ½-inch Crown meters. |
| 4 | ¾-inch Crown meters. |
| 98 | ½-inch Empire meters. |
| 12 | ¾-inch Empire meters. |
| 1 | 1 -inch Empire meter. |
| 245 | ¾-inch services. |
| 23 | ¾-inch services. |
| 3 | 1 -inch services. |
| 36 | 4 -inch fire hydrant connections. |
| 4 | 1½-inch sprinkling standards. |

(g) Larkspur distributing mains, consisting of the following pipe, valves, meters, fire hydrant connections and sprinkling standards:

| | |
|------------|--|
| 7,268 feet | 4 -inch wrought iron pipe. |
| 1,320 feet | 6 -inch wrought iron pipe. |
| 546 feet | 6 -inch casing pipe. |
| 20 | 4 -inch gate valves, iron body, hub end. |
| 6 | 6 -inch gate valves, iron body, hub end. |
| 56 | ½-inch Empire meters. |
| 12 | ½-inch Keystone meters. |
| 3 | ½-inch Lambert meters. |
| 1 | ½-inch Trident meter. |
| 4 | ½-inch wash meters. |
| 86 | ¾-inch services. |
| 1 | 4 -inch service. |
| 1 | 4 -inch hydrant connection. |

(h) The mains outside of incorporated towns consisting of the following pipes, valves, meters, sprinkling standards and services:

In Fairfax:

| | |
|-------------|----------------------------|
| 485 feet | 2 -inch wrought iron pipe. |
| 10,768 feet | 4 -inch wrought iron pipe. |
| 400 feet | 6 -inch wrought iron pipe. |

In Kentfield:

| | |
|-------------|----------------------------|
| 1,100 feet | 1½-inch wrought iron pipe. |
| 5,690 feet | 2 -inch wrought iron pipe. |
| 19,810 feet | 4 -inch wrought iron pipe. |
| 877 feet | 3 -inch cast iron pipe. |
| 183 feet | 4 -inch cast iron pipe. |

In San Rafael Suburbs:

| | |
|------------|----------------------------|
| 7,850 feet | 2 -inch wrought iron pipe. |
| 5,695 feet | 3 -inch wrought iron pipe. |
| 2,832 feet | 4 -inch wrought iron pipe. |
| 673 feet | 6 -inch wrought iron pipe. |
| 4,721 feet | 10 -inch converse pipe. |

In Marin Heights:

765 feet 4 -inch wrought iron pipe.
 883 feet 6 -inch wrought iron pipe.

In San Quentin:

365 feet 1½-inch wrought iron pipe.
 4,640 feet 2 -inch wrought iron pipe.
 7 3 -inch gate valves, iron body, hub end.
 35 4 -inch gate valves, iron body, hub end.
 21 6 -inch gate valves, iron body, hub end.
 2 8 -inch gate valves, iron body, hub end.
 4 10 -inch gate valves, iron body, hub end.
 11 2 -inch valves, brass.
 1 2 -inch Empire meter.
 3 3 -inch Gen meters.
 1 1 -inch Empire meter.
 1 1 -inch Keystone meter.
 1 ¾-inch Empire meter.
 138 ½-inch Empire meters.
 47 ½-inch Crown meters.
 32 ½-inch Keystone meters.
 3 ½-inch Lambert meters.
 5 ½-inch wash meters.
 388 ½-inch services.
 2 ¾-inch services.
 2 1 -inch services.
 1 1½-inch service.
 5 2 -inch services.
 5 3 -inch services.
 1 4 -inch service.
 1 6 -inch service.
 33 1½-inch sprinkling standards.

The foregoing are all included in a certain report of the J. G. White Engineering Corporation to the Marin Water and Power Company, dated February 23, 1914, to which reference is hereby made for a more complete description of said properties.

6. Together with all properties built and building or to be built subsequent to the making of the list by the above engineering firm up to the date of the findings and judgment of the Railroad Commission in the above entitled matter.

7. Also all of the following water rights and rights connected with the use of water which are conveyed to the Marin County Water Company, the predecessors in interest of the Marin Water and Power Company, by the following deeds, to wit:

(a) Deed from Adolph Mailliard, dated December 28, 1871, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber "K" of Deeds at page 113.

(b) Deed from Pacific Powder Company, dated January 8, 1872, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber "J" of Deeds, at page 436.

(c) Deed from Samuel P. Taylor, dated February 20, 1872, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber "J" of Deeds, at page 479.

(d) Deed from Grandenzio Cheda, dated March 18, 1872, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber "J" of Deeds, at page 528.

(e) Deed from Jose Garcia, dated April 6, 1872, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber "K" of Deeds, at page 176.

(f) Deed from M. Hilaria Garcia, dated April 15, 1872, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber "K" of Deeds, at page 178.

(g) Deed from Loretta Garcia, dated April 15, 1872, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber "K" of Deeds, at page 180.

(h) Deed from Felipe J. Garcia, dated April 15, 1872, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber "K" of Deeds, at page 182.

(i) Deed from G. Godoni and G. Gotta, dated June 26, 1872, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber "K" of Deeds, at page 312.

(j) Deed from Omar Jewell, dated June 26, 1872, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber "K" of Deeds, at page 314.

(k) Deed from Luigi Mazza, dated June 26, 1872, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber "K" of Deeds, at page 316.

(l) Deed from James M. Shafter, dated July 11, 1872, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber "K" of Deeds, at page 306.

(m) Deed from Maria L. Black Estate, dated September 14, 1872, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber "J" of Deeds, at page 592.

RIGHTS OF WAY.

Group 1.

First.—An easement and right of way to lay down a line of water pipe and forever maintain the same, across a certain tract or parcel of land near the town of San Rafael, more particularly described as follows, to wit:

Beginning at a point 41 feet east of the northwest corner of lot 1, block 3, in what is known as Ross Addition to the town of San Rafael, running thence south 67 degrees east 166 feet; thence south 64½ degrees east 132 feet; thence south 69½ degrees east 436 feet; thence south 54½ degrees east 60 feet; thence south 40½ degrees east 40 feet; thence south

29½ degrees east 147 feet; thence south 41 degrees east 158 feet; thence south 43½ degrees east 521 feet; thence south 48¾ degrees east 340 feet; thence south 60¾ degrees east 223¾ feet; thence south 60½ degrees east 132 feet; thence south 54 degrees east 131½ feet; thence south 51¾ degrees east 132 feet; thence south 47½ degrees east 105½ feet; thence south 45¼ degrees east 361 feet; thence south 57¼ degrees east 92½ feet; thence south 72¼ degrees east 248¾ feet; thence south 65½ degrees east 246 feet; thence south 65¼ degrees east 60¼ feet; thence south 66½ degrees east 278 feet; thence south 78 degrees east 247½ feet; thence south 76 degrees east 594 feet; thence south 73½ degrees east 99 feet; thence south 64¾ degrees east 91¾ feet; thence south 56 degrees east 89 feet; thence south 45½ degrees east 100 feet; thence south 32 degrees east 876½ feet; thence south 37 degrees east 30¼ feet; thence south 50¼ degrees east 413 feet; thence south 60¼ degrees east 832¼ feet; thence south 59¼ degrees east 198 feet; thence south 57¼ degrees east 62¾ feet; thence south 45¼ degrees east 647 feet; thence south 45¾ degrees east 33 feet; thence south 64 degrees east 132 feet; thence north 85 degrees east 123½ feet; thence south 81 degrees east 66 feet; thence south 65½ degrees east 82½ feet; thence south 76¾ degrees east 216 feet; thence south 82¼ degrees east 46¼ feet; thence south 69½ degrees east 42½ feet; thence south 47¼ degrees east 49½ feet; thence south 35 degrees east 29 feet; thence south 21¼ degrees east 392¾ feet; thence south 42¼ degrees east 132 feet; thence south 35½ degrees east 89 feet; thence south 53¼ degrees east 128¾ feet; thence south 55½ degrees east 299½ feet; thence south 62¼ degrees east 221¼ feet; thence south 69 degrees east 580 feet; thence south 59½ degrees east 118 feet; thence south 60¼ degrees east 81¼ feet; thence south 67¼ degrees east 122¾ feet; thence south 58¾ degrees east 102¼ feet; thence south 47 degrees east 282½ feet; thence south 43¼ degrees east 130¾ feet; thence south 44¼ degrees east 132 feet; thence south 60¾ degrees east 115½ feet; thence south 51¾ degrees east 326¾ feet; thence south 40¾ degrees east 150½ feet to the easterly line of the property purchased by said Coleman from David Porter; also the right of way, free ingress, egress and regress to and for the said Marin County Water Company, its successors and assigns forever, and their servants and employees and workmen to repair, reconstruct, clean or inspect said line of water pipe forever.

Second.—An easement and right of way to lay down a line of water pipe and forever maintain the same, across a certain tract or parcel of land near the town of San Rafael more particularly described as follows:

Beginning at a point three feet easterly from the southwest corner of lot No. 7 of Hughes addition to San Rafael; thence running north 9½ degrees west three hundred and twenty feet to the south line of the Olema and San Rafael road. Also the right of way, free ingress, egress

and regress to and for the said Marin County Water Company, its successors and assigns and their servants, employees and workmen to repair, reconstruct, clean or inspect said line of water pipe forever.

Third.—All the right of way for laying and maintaining a water pipe through the Fern Hill tract, so-called, in the said county of Marin, along a line described as follows, to wit:

Beginning at a point 512 feet from the southwest corner of said tract; thence running north $8\frac{1}{2}$ degrees west 377 $\frac{1}{2}$ feet; thence running north $18\frac{1}{4}$ degrees east 814 feet; thence north 23 degrees east 48 feet; thence north $22\frac{1}{4}$ degrees east 122 feet; thence north $20\frac{3}{4}$ degrees east 255 feet to the line dividing said Fern Hill tract from the lands now or heretofore belonging to the Ross estate, and the right of way hereinbefore set forth or granted.

Fourth.—An easement and right of way to keep and forever maintain a water pipe upon and along the line on which it is now laid across that piece or parcel of land situated in the State of California, county of Marin, bordering on Fourth street and in the town of San Rafael, described as follows:

Beginning at a point in the south line of the property formerly belonging to Isaac Jessup, distant 194 $\frac{1}{2}$ feet from the southeast corner thereof; thence north 72 degrees east 73 feet; thence north 35 degrees east 73 feet; thence north $23\frac{1}{4}$ degrees east 101 $\frac{3}{4}$ feet; thence north 2 degrees east 218 feet; thence north $11\frac{1}{2}$ degrees west 269 $\frac{1}{2}$ feet to the dividing line between the lands of Isaac Jessup and one W. S. Hughes

Fifth.—Grant of right of way over all lands of J. O. B. Short as the same was used and enjoyed by the Marin County Water Company on the 24th day of May, 1878, for the use of said company for pipe lines as contained in deed dated May 24, 1878, and recorded in the office of the county recorder of the county of Marin, in Liber "R" of Deeds, at page 485.

Sixth.—An easement and right of way to keep and forever maintain a water pipe upon and along the line which it is now laid across that certain tract of land in said town of San Rafael, which was conveyed to David Warden by Matilda C. Moore by a deed dated April 12, 1889, and recorded in Book "9" of Deeds, at page 502, of Marin County Records, said line of water pipe being more particularly described as follows:

Beginning at a point in the northerly line of the tract of land which was conveyed to the said Marin County Water Company by Matilda C. Moore by a deed dated May 25, 1878, and recorded in Book "R" of Deeds, at page 482, of Marin County Records, said point being about three feet easterly from the northwest corner of said tract so conveyed to said water company; thence in a northerly direction practically in a straight line to a point in the northerly line of the

tract of land conveyed to David Warden and first herein above mentioned, said point being about twenty-five feet easterly from the northwest corner of said tract.

Seventh.—A right of way upon and over the lands of Henry C. Campbell, in Marin County, State of California, for the purpose of laying down and forever maintaining a line of water pipes, which said line or course is described as follows, to wit:

Beginning at a stake marked "A" driven in the easterly line of the county road leading from San Rafael to Petaluma, distant thereon 2,030 8-10 feet northerly from the northerly corporate limits of the city of San Rafael, and distant south 42 degrees 26 minutes east 133 7-10 feet from station post No. 31 of the survey of the exterior boundary line of the property of Henry C. Campbell, dated April, 1888; thence parallel with and distant 14 feet northerly at right angles from the center line of a proposed street 60 feet wide, north 56 degrees 53 minutes east 327 7-10 feet and north 66 degrees 58 minutes east 779 7-10 feet, crossing said proposed street to a stake marked "C," thence parallel with and distant 14 feet southerly at right angles from the center line of said proposed street 60 feet wide, north 36 degrees 44 minutes east 317 9-10 feet and north 44 degrees 1 minute east 153 9-10 feet to a stake marked "E"; thence parallel with and distant 6 5-10 feet westerly at right angles from the center line of a proposed street 45 feet wide, south 34 degrees 39 minutes east 423 4-10 feet to a stake marked "F"; thence parallel with and distant 4 feet northerly at right angles from the center line of a proposed street 40 feet wide, south 84 degrees 9 minutes east 23 feet crossing the Point San Pedro road as now traveled to a stake marked "G."

Eighth.—A right of way upon and over the land of Mary Agnes Forbes, in Marin County, State of California, for the purpose of laying down and forever maintaining a line of water pipes, which said line or course is described as follows, to wit:

Beginning at a stake driven in the westerly side of the county road leading from San Rafael to Petaluma, distant thereon 2,025 feet northerly from the northerly corporate limits of the city of San Rafael; thence southwesterly, curving to the left on the arc of a circle having a radius of 146 2-10 feet (40 degree curve) 143 5-10 feet to a stake from which a white oak tree three feet in diameter, blazed and marked with a spike, bears south 46 degrees 8 minutes east 99 4-10 feet distant; thence south 21 degrees 19 minutes east 342 1-10 feet to a stake driven in the northeasterly line of the right of way of the San Francisco and North Pacific Railway, distant 15 feet northeasterly at right angles from the center of the track of said railway.

Ninth.—A right of way extending from the Lagunitas road, running in front of the land of Mrs. Anna S. Ross, which lies westerly of the

land occupied by the North Pacific Coast Railroad and which is described in a deed from Anna S. Ross to the North Pacific Coast Railroad, dated the sixteenth of March, 1882, and recorded on page 630, of Volume W, of Deeds of Marin County, State of California, to the new road through the Cole tract.

Tenth.—A right of way over and through the lands of the North Pacific Coast Railroad Company, situated in the county of Marin, State of California, for the purpose of laying and maintaining a water pipe in said county and described as follows:

Beginning at a point in the westerly line of the county road known as the "Red Hill and Ross Landing road," distant southerly thereon 120 feet from the point of intersection of said line with the southerly line of the San Rafael and Olema road, said point of beginning being also southerly 22 feet from the southeast corner of the car house recently erected at San Anselmo Junction, running thence parallel with the southerly side of said car house north 77 degrees 43 minutes west 230 2-10 feet; thence south 59 degrees 12 minutes west, crossing main tract to Duncan's Mills 86 6-10 feet; thence south 27 degrees 38 minutes west 22 5-10 feet to a point in the line fence dividing the lands of the North Pacific Coast Railroad Company from the lands of Sidney V. Smith, said last named point being distant north 59 degrees 17 minutes east 136 4-10 feet from the most easterly corner of Lot No. 42, as said lot is shown on the map of "Ross Valley Park," filed in the recorder's office of Marin County, State of California, on the 21st day of November, 1900.

Eleventh.—A right of way to lay and forever maintain a water pipe or main over and across a portion of the lands of Sidney V. Smith, near San Anselmo, Marin County, California, described as follows, to wit:

Beginning at a point in the line dividing the lands of the North Pacific Coast Railroad Company from the lands of Sidney V. Smith, said point being distant north 59 degrees 17 minutes east 136.4 feet from the most easterly corner of Lot No. 42, as said lot is shown on the map of "Ross Valley Park," filed in the recorder's office of Marin County, California, on the 21st day of November, 1900, running thence south 27 degrees 38 minutes west, crossing the Arroyo San Anselmo over a bridge, 71.8 feet; thence south 71 degrees 36 minutes west 102.6 feet to a point in Ross Valley avenue, as delineated upon the map aforesaid, distant southerly at right angles to the northerly line of said avenue 16 feet from the most easterly corner of Lot No. 42 aforesaid.

Also to lay and forever maintain a water pipe or main over and along Ross Valley avenue, Tamalpais avenue, San Rafael avenue and Marin avenue, as designated upon said map aforesaid, at a uniform distance of

sixteen feet from the northerly, easterly, southerly and westerly lines of said avenues, respectively, as above named. Also the right to lay and forever maintain service pipes connecting with said mains and running to any and all lots into which said Valley Park is now or may hereafter be divided.

Twelfth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Poplar avenue and Redwood drive, and also along a strip of land six feet wide running along the southerly line of lot 28, as all of the foregoing are designated and delineated on that certain map entitled "Map of the Bosqui Tract near Ross, Marin County, California," and recorded on the 13th day of March, 1905, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful pipes connecting with said water pipes, or mains, and running or leading to any and all lots or parcels of land fronting upon said avenue, drive or strip, for the purpose of supplying said lands with water.

Thirteenth.—The right to lay, maintain, repair and remove water pipes and mains over and along an open driveway thirty feet wide, whose center line is described as follows:

Beginning at a point in the southerly line of First street distant, measured thereon, north 68 degrees 10 minutes; west 111.3 feet from the northwest corner of lot 5, block 10, of "Short's Addition to the town of San Rafael," thence south 1 degree 20 minutes east 273.7 feet; also along a strip of land eight feet wide, whose center line is south 21 degrees 45 minutes west 255 feet from the terminus of the last course hereinabove mentioned. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said driveway or strip for the purpose of supplying said lands with water.

Fourteenth.—The right to lay, maintain, repair, remove and relay a water main, together with the necessary valves, gates, and fixtures along, across and through the lands of Mrs. A. E. Kent, at Kentfield, Marin County, California, along the following described lines, to wit:

First—Beginning at a point in the northerly line of the said lands of the said Mrs. A. E. Kent, at the south end of Kent avenue, distant fifteen (15) feet westerly from the right of way of the North Shore Railroad Company; thence crossing said lands, running parallel with and fifteen (15) feet westerly from the westerly line of the right of way of the North Shore Railroad Company south 21 degrees 50 minutes east six hundred and eighteen (618) feet to the west line of the county road known as the Ross Landing and Sausalito road.

Second—Beginning at a point in Kent avenue at the intersection of the lane known as the “Entrance” as said Kent avenue and “Entrance” are shown and delineated upon that certain map entitled “Map of the Raymond Tract, Ross Valley, Marin County, Subdivision One,” and filed for record in the office of the county recorder of Marin County, in Map Book No. 2, at page 30, said point of beginning being fifteen (15) feet westerly at right angles from the westerly line of the right of way of the North Shore Railroad Company and fifteen (15) feet northerly at right angles from the northerly line of the said lands of Mrs. A. E. Kent at the south end of Kent avenue, thence northeasterly parallel with and fifteen (15) feet northerly from the south line of said “Entrance” three hundred and fifty-two (352) feet to the westerly line of said county road.

Fifteenth.—The right to lay, maintain, repair and remove water pipes and mains upon, over, across and from that certain piece or parcel of land near Corte Madera, Marin County, California, described as follows, to wit:

A strip of land of the uniform width of ten (10) feet; lying five (5) feet on each side of a certain line beginning at a point in the westerly line of lot thirty-three *b* (33*b*) of Chapman Park as said lot is shown and delineated upon Map No. 2 thereof, filed in the office of the county recorder of Marin County, in Volume 2, of Records of Maps, page 73, distant thereon eighty-six (86) feet north of the southwest corner of said lot, said point of beginning being station $265+20\frac{1}{10}$ of the survey of the proposed pipe line from Corte Madera to Sausalito as said line is now located and marked by stakes set in the ground at intervals of one hundred (100) feet; thence along said center line, crossing said lot thirty-three *b* (33*b*) south 37 degrees 29 minutes east one hundred and twenty (120) feet to the northerly line of the county road leading from Corte Madera to Alto, all courses given by the true meridian, the magnetic declination being 17 degrees 30 minutes east. And also the right to lay, maintain, repair and remove over, across and from said strip of land all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said strip of land for the purpose of supplying said lands with water.

Sixteenth.—The right to lay, maintain, repair and remove water pipes and mains in, over, along and upon that certain strip of land situate in Corte Madera, county of Marin, State of California, bounded and described as follows, to wit:

A strip of land bounded as follows: On the north by the southerly boundary line of the land of the Bradbury Estate Investment Company, on the east by the right of way of the Northwestern Pacific Railroad, on

the south by the northerly boundary line of the lands of Mary Agnes Bosman and others, being a portion of the Tierney tract, and on the west by a line described as follows, to wit:

Beginning at a point in the southerly line of that tract of land which was conveyed by Edgar J. Malmgren to the Bradbury Estate Investment Company by a deed dated January 18, 1906, and recorded in the office of the county recorder of Marin County in Book 97 of Deeds, at page 302, distant thereon twenty-five and eight tenths (25.8) feet west of the east corner thereof, said point of beginning being station $247+69\frac{8}{10}$ of the proposed pipe line from Corte Madera to Sausalito as said line is now located and marked by stakes set in the ground at intervals of one hundred (100) feet surface measurement, thence along said pipe line south 19 degrees 1 minute east thirty and four tenths (30.4) feet to a stake marked 248, one hundred and five and one tenth (105.1) feet to a stake marked $248+74\frac{7}{10}$ feet driven in the southerly line of the lands of Edgar J. Malmgren, distant thereon twenty-eight and five tenths (28.5) feet west of the southeast corner thereof. And also the right to lay, maintain, repair and remove, over, upon, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land adjoining said strip of land aforementioned for the purpose of supplying such adjoining lands with water.

Seventeenth.—The right to lay, maintain, repair and remove water pipes and mains over all that certain property situated in the county of Marin, State of California, bounded and particularly described as follows:

Tract A—A strip of land of the uniform width of ten (10) feet lying five (5) feet on each side of the proposed pipe line from Corte Madera to Sausalito and first hereinafter described from Station C $248+77\frac{3}{10}$ thereof to Station $265+20\frac{5}{10}$ thereof.

Tract B—A strip of land of the uniform width of ten (10) feet lying five (5) feet on each side of the proposed pipe line from Corte Madera to Sausalito and second hereinafter described from Station $267+87$ thereof to Station D $299+44\frac{7}{10}$ thereof. Said proposed pipe line from Corte Madera to Sausalito is described as follows, to wit:

First—Beginning at a point in the southerly boundary line of that tract of land near Chapman Park which was conveyed by Mary Agnes Forbes and others to Edgar J. Malmgren by a deed dated November 28, 1905, and recorded in the office of the county recorder of Marin County in Book 97 of Deeds, at page 270, distant thereon 20 2-10 feet west of the southeast corner of said tract, said point of beginning being Station C $248+77\frac{3}{10}$ of the survey of the proposed pipe line from Corte Madera to Sausalito as said line is now located and marked by stakes set in the ground at intervals of 100 feet surface measurement;

thence along said pipe line crossing the "Tierney tract" south 20 degrees 37 minutes east 435 4-10 feet to a stake marked C 253+12 7-10; thence south 14 degrees 6 minutes east 335 3-10 feet to a stake marked C 256+48; thence south 27 degrees 14 minutes east 857 feet to a stake marked 265, and thence south 37 degrees 29 minutes east 205 5-10 feet to the boundary line between the "Tierney tract" and the lands of Henry G. Meyer.

Second—Beginning at a point in the easterly line of the county road leading from Corte Madera to Alto, distant thereon 19 feet south of the southwest corner of that tract of land which was conveyed by Edgar C. Chapman to Frank J. Baker by a deed dated August 8, 1903, and recorded in the office of the recorder of Marin County in Book 83 of Deeds, at page 288, said point of beginning being station 267+87 of the survey of the proposed pipe line from Corte Madera to Sausalito as said line is now located and marked by stake set in the ground at intervals of 100 feet, surface measurement; thence along said pipe line crossing the Cummings tract south 37 degrees 29 minutes east 149 7-10 feet to a stake marked C269+36 $\frac{7}{10}$; thence south 15 degrees 07 minutes east 1,300 7-10 feet to a stake marked D282+37 $\frac{4}{10}$; thence parallel with and distant twenty (20) feet at right angles from the westerly line of the right of way of the Northwestern Pacific Railroad Company south 7 degrees 35 minutes west 104 6-10 feet to a stake marked D283+42; thence south 16 degrees 00 minutes west 558 feet to a stake marked D289; thence south 19 degrees 46 minutes west 600 feet to a stake marked D295; thence south 17 degrees 40 minutes west 100 feet to a stake marked D296; thence south 16 degrees 35 minutes west 100 feet to a stake marked D297; thence south 14 degrees 02 minutes west 100 feet to a stake marked D298, and thence south 12 degrees 02 minutes west 144 7-10 feet to a point in the northeasterly line of said county road. The portion of the above described line from Station D282+37 $\frac{4}{10}$ feet to Station D299+44 $\frac{7}{10}$ in the northeasterly line of said county road is parallel with and twenty feet westerly at right angles from the westerly line of the right of way of the Northwestern Pacific Railroad Company; all courses given by the true meridian, the magnetic declination being 17 degrees 30 minutes east. And also the right to lay, maintain, repair and remove over and across said premises all necessary or useful service pipes connected with said water pipes or mains and running or leading to any and all lots or parcels of land adjoining or in the vicinity of the right of way hereinbefore granted for the purpose of supplying said lands with water.

Eighteenth.—The right to lay, maintain, repair and remove water pipes and mains, in, over, along and upon that certain strip of land situate in Corte Madera, Marin County, State of California, bounded and described as follows, to wit:

Beginning at a stake marked $245+83\frac{8}{10}$ driven in the southerly boundary line of the Colony Park tract as shown on the map thereof filed January 19, 1897, in the county recorder's office of Marin County in Records of Maps, Volume 1, page 95, distant thereon 15 feet west of the southeast corner of said tract, said place of beginning being Station $245+83\frac{8}{10}$ of the proposed pipe line from Corte Madera to Sausalito as said line is now located and marked by stakes set in the ground at intervals of 100 feet surface measurement; thence south 19 degrees 01 minute east 162-10 feet to a stake marked $246+116\frac{3}{10}$ feet to a stake marked 247, and 185 8-10 feet to a point in the southerly line of the lands of the Bradbury Estate Investment Company, distant thereon 25 5-10 feet west of the southeast corner of said lands.

And also the right to lay, maintain, repair and remove over, upon, across and from said premises all necessary or useful pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land adjoining said strip of land aforementioned for the purpose of supplying such adjoining lots with water.

Nineteenth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from a strip of land of the uniform width of ten (10) feet lying five (5) feet on each side of the following described center line, to wit:

Commencing at a point distant south 1 degree 30 minutes west one hundred seventy-eight and two tenths (178.2) feet from the southwest corner of lot I, as delineated on that certain map entitled "Section Map A," being portion of map entitled "Plan of Villa Lots near San Rafael," as filed in the recorder's office of Marin County, State of California, September 10, 1887, being subdivisions of lots 29, 30, and 31, as shown upon said map; thence running south 84 degrees 57 minutes east one hundred and seventy-nine and 35-100 (179.35) feet south 81 degrees east eighty-one and 80-100 (81.80) feet south 76 degrees 34 minutes east one hundred and forty-seven and 10-100 (147.10) feet south 89 degrees 20 minutes east seventy-one (71) feet, more or less, to the westerly line of the county road. And also the right to lay, maintain, repair and remove over, across and from said strip of land all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon or adjacent to said strip of land for the purpose of supplying said land with water.

Twentieth.—The right to lay, maintain, repair and remove water pipes and mains in, along, and from the following described premises, to wit:

Beginning at the point of intersection of the center lines of Mission street and Mission avenue as the same are laid down and delineated

upon Map No. 1, San Rafael Development Company, which map was filed in the office of the recorder of Marin County on the 25th day of April, 1908, in Map Book No. 2, at page 116; thence running along the center line of Mission avenue as shown on said map and as extended easterly (said avenue being sixty feet wide) the following courses and distances: north 51 degrees 37 minutes east 408.1 feet, south 89 degrees 7 minutes east 50 feet, south 74 degrees 58 minutes east 200.2 feet, south 57 degrees 1 minute east 216.4 feet, south 45 degrees 19 minutes east 100 feet, south 0 degrees 09 minutes east 200 feet, south 32 degrees 4 minutes east 99.3 feet, south 40 degrees 11 minutes east 99.6 feet, south 47 degrees 8 minutes east 217.5 feet, south 79 degrees 32 minutes east 56.7 feet, north 76 degrees 30 minutes east 290.1 feet, north 62 degrees 57 minutes east 83.9 feet, north 47 degrees 34 minutes east 127.9 feet, north 78 degrees 31 minutes east 217.1 feet, north 64 degrees 14 minutes east 91 feet, north 38 degrees 36 minutes east 216.8 feet, north 53 degrees 38 minutes east 151.4 feet; north 49 degrees 48 minutes east 238.3 feet, north 65 degrees 41 minutes east 58.5 feet; thence leaving Mission avenue and along the center line of a strip of land ten feet wide north 60 degrees 13 minutes east 567.7 feet to the center of a graded road forty feet wide; thence along the center line of said graded road, north 66 degrees 58 minutes east 219.5 feet, north 85 degrees 23 minutes east 65.8 feet, south 77 degrees 34 minutes east 100.5 feet, north 81 degrees 31 minutes east 69.9 feet, north 52 degrees east 49.5 feet, north 29 degrees 39 minutes east 68.5 feet; thence leaving said graded road and along the center line of a strip of land ten feet wide north 45 degrees 4 minutes east 519.1 feet; thence north 49 degrees 55 minutes east 168.8 feet to a stake "W.C." (to be referred to hereafter herein); thence continuing on the same course and along the center line of a graded road forty feet wide 881.5 feet to a stake "W.C.1" (to be referred to hereafter herein); thence along the center line of a strip of land ten feet wide south 61 degrees 43 minutes east 406.6 feet to a point in the center of the San Pedro road.

Also beginning at the stake "W.C.1," above mentioned, and running along the center line of a road forty feet wide, north 4 degrees west 319.3 feet, south 87 degrees 43 minutes west 283.7 feet, and north 89 degrees 58 minutes west 344.8 feet.

Also beginning at the stake W.C., above mentioned, and running along the center line of a strip of land ten feet wide, north 43 degrees 9 minutes west 126.2 feet, north 46 degrees 58 minutes west 190.9 feet, north 18 degrees 20 minutes west 435.3 feet (at 365 feet line intersects and crosses a water gate), north 33 degrees 52 minutes west 132.5 feet, north 9 degrees 2 minutes west 188.1 feet, north 1 degree 57 minutes east 150.7 feet, north 29 degrees 23 minutes east

102.5 feet, north 3 degrees 30 minutes east 175.1 feet, north 13 degrees 40 minutes east 147.2 feet, north 16 degrees 40 minutes west 164.3 feet; thence along the center line of a graded road forty feet wide south 36 degrees 7 minutes west 76.9 feet, north 82 degrees 7 minutes west 270 feet, north 21 degrees 24 minutes west 150.4 feet, south 29 degrees 36 minutes west 78.3 feet, south 6 degrees 24 minutes east 210.1 feet, south 20 degrees 1 minute west 60.6 feet, and south 61 degrees 37 minutes west 47.3 feet to a point opposite the lands of Cook.

Also over and along all streets, avenues and lands laid down and delineated upon Map No. 1 of the lands of the San Rafael Development Company filed in the office of the recorder of said Marin County on April 25, 1908, in Map Book No. 2, page 116. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said avenues, roads or strips of land hereinbefore mentioned for the purpose of supplying said lands with water.

Twenty-first.—The right to lay, maintain, repair and remove water pipes and mains over, along and from the following described streets, roads, avenues and trails, to wit:

First—That certain road known and designated as Floribel road running across lots 15 and 16 as the same are laid down and designated on that certain map entitled "Rosenthal Tract, being Subdivision three, Sunnyside Tract," recorded June 4, 1906, in the office of the county recorder of the county of Marin, State of California, in Book 2 of Maps at page 58.

Second—That certain avenue known and designated as Claire avenue, and being a continuation of said Floribel road, which said Claire avenue runs through lots 17 and 18 of said Rosenthal tract aforementioned.

Third—That certain road known as Redwood road running through lots 15, 16, 17 and 18 of said Rosenthal tract aforementioned.

Fourth—That certain road known and designated as Savannah road leading from Redwood road in a northerly direction and the trail connecting said Savannah road with Floribel road in lots 15 and 16 of said Rosenthal tract.

Fifth—From the easterly line of lot 9 at a point thereon about 200 feet westerly from the southerly line of said lot 9 northerly across lot No. 12 to that certain road known as Hilda avenue, and then along said Hilda avenue through lots 13 and 14 of said Rosenthal tract. And also the right to lay, maintain, repair and remove over, across and from said roads, avenues, streets and trails all necessary or useful service pipes connecting said water pipes or mains and

running or leading to any and all lots or parcels of land fronting upon said roads, avenues, streets and trails for the purpose of supplying said lands with water.

Twenty-second.—A right of way to lay and maintain and repair a water pipe for the conducting of water through, over and along a certain right of way now used and occupied by the Marin Water and Power Company, along a strip of land extending from the city of San Rafael to the village of San Quentin in said Marin County and to the reservoir at said village, as the said right of way now is and for many years last past has been used by the said Marin Water and Power Company and by its predecessors in interest.

RIGHTS OF WAY.

Group 2.

First.—The right of way through Fourth and Fifth streets, E, F and G streets from Fourth to Sixth street, H street from Fourth street to Forbes avenue, Culloden avenue from H to J streets, Forbes avenue from H to J streets, I and J streets from Culloden avenue to Forbes avenue and Center street from H to J streets, in the addition known and called Forbes Addition or Forbes Additions to the town of San Rafael, for the purpose of laying down water pipes and mains, water gates, service and stop cocks, and all the appurtenances to the laying of water pipes and mains and the care, repair and maintenance of the same, of such length as may be necessary and convenient for the laying down, care, repair and maintenance of such pipe but not exceeding thirty inches in width.

Second.—The right at all times hereafter to lay down pipes for the conveyance of water over, along and through all the streets and roads now open or which may hereafter be opened through what is known as Coleman's Addition to the town of San Rafael.

Third.—All the right of way over and along a strip or parcel of land of the equal width of fifty feet in San Rafael, Marin County, California, bounded on the north and east by the following described line:

Beginning at the point in the north line of Ross street at which said line would be intersected by the west line of Clark street if continued northerly; running thence westerly in the course of the north line of Ross street two hundred and fifty (250) feet; thence north $38\frac{1}{2}$ degrees west 150 feet; thence north $50\frac{1}{2}$ degrees west 189 feet; thence north $33\frac{1}{2}$ degrees west 115 feet; thence north $35\frac{1}{2}$ degrees west 144 feet; thence north $14\frac{1}{2}$ degrees west 62 feet; thence north $36\frac{1}{2}$ degrees west 133 feet; thence north $62\frac{1}{2}$ degrees east 105 feet to a stake 50 feet southerly from the line of fence between the land of Isaac Jessup and the lands of the Shorts; thence north $78\frac{1}{2}$ degrees east 99 feet to Mrs. Moore's west line; thence north $14\frac{1}{2}$ degrees east 56 feet to Jessup's

fence, bounded on the west and south by a line running parallel with and fifty feet from the line hereinbefore described except the last call thereof. That is to say, the whole of the line hereinbefore described from the point of beginning to Mrs. Moore's west line, said west and south line running to the southwest corner of Clark street and Ross street and the said right of way being further bounded on the east by the west line of Clark street extended northerly to the point of beginning.

Fourth.—All that certain lot, piece or parcel of land situate, lying and being in the county of Marin, State of California, and bounded and particularly described as follows, to wit: A right of way for the purpose of laying and maintaining water pipes and water mains, commencing at a point on the line of the present pipe running through the so-called Wagner ranch at a point at or near where said pipe turns toward the clubhouse of the San Rafael Golf Club, and thence in a generally easterly direction along the road known as San Pablo avenue to the line dividing said so-called Wagner ranch from the land of E. G. Stetson.

Fifth.—The right of way to lay and forever maintain a water pipe or main in Maple avenue of Villa Lot No. 21, Marin County, California, along the following described line, to wit:

Beginning at a point in the easterly line of the Red Hill and Ross Landing road distant thereon north 46 degrees 40 minutes west 161 feet, from the most southerly corner of that tract of land, which was conveyed to Patrick Ross and James Gilhuly, by a deed recorded in the office of the recorder of Marin County in Book 57 of Deeds, at page 160; thence along said Maple avenue parallel with and distant 16 feet from the southerly line thereof, north 44 degrees 40 minutes east 800 feet. Also the right to lay and forever maintain service pipes connecting with said main and running to any and all lots into which said Villa Lot 21 is now or may hereafter be divided.

Sixth.—The right to lay and forever maintain water pipes or mains for the purpose of conducting water on, over, along and across that certain strip of land situate near Ross Valley in Marin County, California, and being known as Willow avenue, and the right forever of going in and upon said strip of land for the purpose of constructing, laying or maintaining said water pipes or mains, or to construct, lay down or maintain water connections or branch pipes connecting with said water pipes or mains for the purpose of supplying water to patrons of said water company along the line of said Willow avenue.

Seventh.—The right to lay and forever maintain a water pipe or main over and across a portion of the land of J. D. Hannah and S. P. Blumenberg, near Kent Station, Marin County, and more particularly described as follows: Along the line of Stetson avenue, Fos-

ter avenue, and Russell avenue, the full length of such avenues in the Madrone tract as per map on file in the county recorder's office, filed October 11, 1900; also the right to lay, and forever maintain service pipes connecting with said mains and running to any and all lots in the said Madrone tract as it is now or may hereafter be divided.

Eighth.—The right to lay and forever maintain a water pipe or main over and along Madrone avenue, Redwood avenue, Hazel avenue, Laurel avenue, Grove lane, Oak lane, as said avenues and lanes are shown on the map of Ross Valley Park, Subdivision Two, filed in the office of the county recorder of Marin County, State of California, on the 23d day of November, 1903, in Book 1 of Maps, page 130. Also the right to lay and forever maintain service pipes connecting with said mains and running to any and all lots into which said Ross Valley Park, Subdivision Two, is now or may hereafter be divided.

Ninth.—The right to lay and repair and forever maintain water pipes or mains over and across a portion of the lands of J. H. Gilhuly, near Kent station, Marin County, California, and more particularly described as follows: Along the line of Elm avenue the full length of said Elm avenue as per map of subdivision of Hellman lot in Ross Valley, Marin County, California, filed in the office of the county recorder on the 14th day of September A. D. nineteen hundred and three, in Book 1 of Maps, at page 127. Also the right to lay, repair and forever maintain service pipes connecting with said mains and running to any and all lots or parcels of land in said tract as it is now or may hereafter be divided.

Tenth.—The right to lay, repair and forever maintain water pipes or mains over and across a portion of the lands of Mrs. William Barber, near San Anselmo station, in Marin County, State of California, and more particularly described as follows:

Along the line of San Anselmo avenue and along the line of Prospect avenue the full length of said avenue as per Amended Map No. 1 of the lands of Mrs. William Barber in Ross Valley, Marin County, California, filed in the office of the county recorder on the 16th day of July, A. D. 1904, in Book 2 of Maps, at page 3.

Also the right to lay, repair and forever maintain water pipes or mains over and across a portion of the lands of the said Mrs. William Barber near San Anselmo station, in Marin County, State of California, and more particularly described as follows:

Along the lines of Entrara avenue, Avenue del Norte, and Alta avenue the full length of said avenues as per Map No. 2 of the land of Mrs. William Barber, in Ross Valley, Marin County, California, filed in the office of the county recorder on the 3d day of September, A. D. 1904, in Book 2 of Maps, at page 8. Also the right to lay, repair

and forever maintain service pipes connecting with said water pipes or mains running to any and all lots or parcels of land in said tracts of land, as they are now or may be hereafter divided.

Eleventh.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Walnut avenue, Olive avenue and Pearl avenue as all the foregoing are designated and delineated on that certain map entitled “Map of the Pearl Tract near Ross, Marin County, California,” and recorded on the 11th day of November, 1904, in Book 2 of Maps, at page 11, in the office of the recorder of said county of Marin. Also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said avenues, for the purpose of supplying said lands with water.

Twelfth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from all the roads now in Ross Valley Park Villa lots as all the foregoing are designated and delineated on that certain map entitled “Map of Ross Valley Park, Villa Lots, San Anselmo, Marin, California,” and recorded on the 11th day of January, 1905, in Book 2 of Maps, at page 14, in the office of the recorder of said Marin County. Also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said roads for the purpose of supplying said lands with water.

Thirteenth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from that certain avenue in Subdivision 1 of Linda Vista tract at San Anselmo, Marin County, California, known as “Villa avenue,” the said Villa avenue being that certain right of way thirty feet wide which is fully described and set forth in that certain deed from Mary Tunstead to Carlo Pietro Pizochoero and Emilia Ame Pizochoero dated June 2, 1900, and recorded on the same day in the office of the county recorder of Marin County, in Book 63 of Deeds, at page 98; and also the right to lay, maintain, repair and remove water pipes and mains over, along and from “Magnolia avenue” as the latter is designated and delineated on that certain map entitled “Map of Magnolia Tract, San Anselmo, Marin County, California,” and recorded on the 23d day of August, 1904, in Book 2 of Maps, at page 7, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said pipes or mains and running or leading to any and all lots or parcels of land fronting upon said avenues for the purpose of supplying said lands with water.

Fourteenth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from that certain avenue in Subdivision One of Linda Vista tract at San Anselmo, Marin County, California, known as "Villa avenue," the said Villa avenue being that certain right of way thirty feet wide which is fully described and set forth in that certain deed from Mary A. Tunstead to Carlo Pietro Pizochoero and Emilia Ame Pizochoero dated June 2, 1900, and recorded the same day in the office of the county recorder of Marin County, California, in Book 63 of Deeds, at page 98. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting on said avenues, for the purpose of supplying said lands with water.

Fifteenth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from "Hillside avenue" as the foregoing is designated and delineated on that certain map entitled "Map of Ross Valley Park," Hillside Tract, San Anselmo, Marin County, California," and recorded on the 16th day of February A. D. 1905, in Book 2 of Maps, at page 15, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said avenue for the purpose of supplying said lands with water.

Sixteenth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from all the roads, lanes, avenues, drives or strips of land as all of the foregoing are designated and delineated on that certain map entitled "Map of the Bush Tract, Marin County, California," and filed on the 27th day of May, 1905, in the office of the recorder of said county of Marin. And also the right to lay, maintain repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said roads, lanes, avenues, drives or strips of land for the purpose of supplying said lands with water.

Seventeenth.—The right to lay, maintain, repair and relay water pipes and mains over, along and from that certain road known as Road No. 5 in Ross Valley, Marin County, California, said road being more particularly described as follows, to wit:

Commencing at a point formed by the intersection of the center line of that road which lies between the lands of Harrietta De Witt Kittle and the lands of one Eugenia Emanuelita de Santa Marina Rodgers,

which road is designated as Road 5 on that certain map of the lands of Harrietta De Witt Kittle, as surveyed for her by Frank J. Baker, in 1894, with the northerly line of the public highway known as "Laurel Grove avenue," from which point an old stake marked K58 bears south 71 degrees 22 minutes east, 120 feet distant, running thence along said road, the courses and distances of the center line of which road are as follows, to wit: north 85 degrees 11 minutes east, 82.2 feet, north 61 degrees 41 minutes east 145.8 feet; north 46 degrees 18 minutes east 40.9 feet; north 16 degrees 25 minutes east 125.8 feet; north 64 degrees 5 minutes east 63.2 feet; north 10 degrees 54 minutes east 304.8 feet; north 30 degrees 6 minutes east 200.7 feet; north 22 degrees 20 minutes east 187.1 feet; north 3 degrees 31 minutes west 331.4 feet to Station 68 in the above mentioned Road 5. And also the right to lay, maintain, repair and relay over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said Road No. 5 for the purpose of supplying said lands with water.

Eighteenth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Kent avenue, Hillside avenue, and the Bridge road, as all of the foregoing are designated and delineated on that certain map entitled "Map of the Raymond Tract, Ross Valley, Marin County, California, Subdivision One," and recorded on the 3d day of August, 1905, in Book 2 of Maps, at page 30, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said avenues or road, for the purpose of supplying said lands with water.

Nineteenth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Chestnut avenue, Hillside avenue, Redwood avenue and the Bridge road as all of the foregoing are designated and delineated on that certain map entitled "Map of the Raymond Tract, Ross Valley, Marin County, California, Subdivision Two," and filed on the 15th day of September, 1905, in Book 2 of Maps, at page 35, in the office of the recorder of said county of Marin; and over, along and from Allen avenue as designated and delineated on that certain map entitled "Map of the Raymond Tract, Ross Valley, Marin County, California, Subdivision Three," and filed on the 2d day of October, 1905, in Book 2 of Maps, at page 38, in the office of the recorder of said county of Marin. Also over, along and from Kent avenue, the Bridge road and Hillside avenue as designated and delineated on that

certain "Map of the Raymond Tract, Ross Valley, Marin County, California, Subdivision One" and filed on the 3d day of August, 1905, in Book 2 of Maps, at page 30, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful pipes connecting with said pipes or mains and running or leading to any and all lots or parcels of land fronting upon said Chestnut avenue, Hillside avenue, Redwood avenue, the Bridge road, Allen avenue and Kent avenue for the purpose of supplying said lands with water.

Twentieth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from a graded road thirty (30) feet wide whose center line is described as follows, to wit:

Beginning at a point in the westerly line of the lands of David Warden, known as the "Moore tract," distant northerly thereon 125 feet from the northwest corner of the Marin County Water Company's reservoir lot which was formerly a portion of said "Moore tract," running thence north 89 degrees 42 minutes east 92 feet, south 75 degrees 27 minutes east 58.5 feet, north 89 degrees 9 minutes east 81.8 feet, south 42 degrees 18 minutes east 42.1 feet, south 22 degrees 15 minutes east 87.1 feet to stake marked "14" in the easterly line of a graded road 15 feet wide; also over, along and from said graded road fifteen (15) feet wide whose easterly line is described as follows, to wit:

Beginning at the last mentioned stake marked "14," thence south 30 degrees 33 minutes east 69.1 feet, south 39 degrees 51 minutes east 48.6 feet, south 3 degrees 35 minutes east 35.7 feet, south 19 degrees 16 minutes west 65.8 feet, south 1 degree 46 minutes east 68.4 feet, and south 1 degree 15 minutes east 147.6 feet. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipe connecting with said water pipes or mains, and fronting upon said roads, for the purpose of supplying said lands with water, all of said lands being in San Rafael, Marin County, California.

Twenty-first.—The right to lay, maintain, repair and remove water pipes and mains over, along and from McAllister avenue, Rosebank avenue, Acacia avenue and Lilac avenue, as all the foregoing are designated and delineated on that certain map entitled "Map of Mira Monte Tract, Kentfield, Marin County, California," and recorded on the 8th day of June, 1906, in Book 2 of Maps, at page 60, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land

fronting upon said avenues for the purpose of supplying said lands with water.

Twenty-second.—The right to lay, maintain, repair and remove water pipes and mains over, along and from that certain road, avenue, lane or driveway as the same is designated and delineated on that certain map entitled “McClung’s Subdivision of Lot 9, Barber Tract, Ross Valley, California,” and recorded on the 15th day of December, 1905, in Book 2 of Maps, at page 47, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful pipes connecting with said water mains or pipes and running or leading to any and all lots or parcels of land fronting upon said road, avenue, lane or driveway for the purpose of supplying said lands with water.

Twenty-third.—The right to lay, maintain, repair and remove water pipes and mains over, along and from what is known as Butler avenue, in Ross Valley, Marin County, California, being more particularly described as follows, to wit: That certain road, lane, driveway or avenue, 50 feet wide, running through a portion of the Butler Tract as shown on that certain map entitled “Map of Subdivision of Butler Tract, near Kentfield, Marin County, California,” and recorded on the 5th day of June, 1906, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said road, lane, driveway or avenue for the purpose of supplying said lands with water.

Twenty-fourth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Altamira avenue and Geary avenue as all of the foregoing are designated and delineated on that certain map entitled “Map of Altamira Park, Ross Valley, Marin County, California,” and recorded on the 11th day of June, 1906, in Book 2 of Maps, at page 61, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said avenues for the purpose of supplying said lands with water.

Twenty-fifth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Fairfax lane, Belle avenue, Oak avenue and Railroad avenue as all of the foregoing are designated and delineated on that certain map entitled “Map of Fairfax Tract, Marin

County, California," and recorded on the 8th day of April, 1908, in Book 2 of Maps, at page 114, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said avenue and lane for the purpose of supplying said lands with water.

Twenty-sixth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from North road, West road, East road and Hill road, as all the foregoing are designated and delineated on that certain map entitled "Map of Ross, Lagunitas Tract, Subdivision of Lot B, Ross Tract, Marin County, California," and recorded on the 8th day of April, 1908, in Book 2 of Maps, at page 115, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said roads for the purpose of supplying said land with water.

Twenty-seventh.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Lily avenue, Rose avenue, Bella Vista avenue, as all of the foregoing are designated and delineated on that certain map entitled "Map of Ross Valley Tract, Marin County," and recorded on the 18th day of July, 1906, in Book 2 of Maps, at page 63, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said avenue for the purpose of supplying said lands with water.

Twenty-eighth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Piedmont road, Magnolia avenue, Monte Vista avenue, Baltimore avenue, Alexander avenue, La Rosa way, William avenue and that certain lane, avenue or driveway running parallel with and adjoining the right of way of the Northwestern Pacific Railway Company as all of the foregoing are designated and delineated on that certain map entitled "Map of Baltimore Park, Marin County, California, Subdivision 1," and recorded on the 9th day of July, 1907, in Book 2 of Maps, at page 90, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said

avenues, roads, lanes or driveways, for the purpose of supplying said lands with water.

Twenty-ninth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Woodside Way road as the foregoing is designated and delineated on that certain map entitled "Woodside Tract, Ross Valley, Marin County, California," and recorded on the 14th day of May, 1908, in Book 2 of Maps, at page 118, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said Woodside Way road for the purpose of supplying said land with water.

Thirtieth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Sais avenue, Nokomis avenue, Calemet avenue, Bloomingdale road, as all of the foregoing are designated and delineated on that certain map entitled "Carrigan Tract Amended Map, San Anselmo," and recorded on the 3d day of March, 1908, in Book 2 of Maps, at page 111, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said avenues and road for the purpose of supplying said lands with water.

Thirty-first.—The right to lay, maintain, repair and remove water pipes and mains, over, along, from Laurel avenue, Cedar avenue and Locust avenue, as the foregoing are designated and delineated on that certain map entitled "Granton Park, Ross Valley, Marin County, California," and recorded on the 4th day of February, 1907, in Book 2 of Maps, at page 77, in the office of the recorder of said county of Marin; and also the right to lay, maintain, repair and remove, over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said Laurel avenue, Cedar avenue and Locust avenue for the purpose of supplying said lands with water.

Thirty-second.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Center street from the westerly line of J street to the westerly line of K street, Forbes avenue from the westerly line of J street to the westerly line of K street, K street from the southerly line of Culloden avenue, as all of the foregoing are designated and delineated on that certain map entitled "Map of the City of San Rafael, compiled in 1899, by Geo. L. Richardson, C. E., from official survey." And also the right to lay, maintain, repair and

remove over, across and from said streets and avenue all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said avenue or streets for the purpose of supplying said land with water.

Thirty-third.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Greenfield avenue, Terrace avenue, Spring Grove avenue and Ross Valley drive as all of the foregoing are designated and delineated on that certain map entitled "Map of San Rafael Heights, Subdivision 1," and recorded on the 7th day of July, 1908, in Book 2 of Maps, at page 124, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said avenues or drive for the purpose of supplying said lands with water.

Thirty-fourth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Stevens Place as all of the foregoing is designated and delineated on that certain map entitled "Map of the Stevens Tract, San Rafael, California," and recorded on the 7th day of April, 1909, in Book 3 of Maps, at page 11, in the office of the recorder of the county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said Stevens Place for the purpose of supplying said lands with water.

Thirty-fifth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Willow avenue, Laurel avenue, Live Oak avenue and Ridgeway avenue as all of the foregoing are designated and delineated on the certain map entitled "Map of P. H. Jordan Company, Subdivision of Ridgeway Park, Marin County, California," and recorded on the 30th day of March, 1908, in Book 2 of Maps, at page 80, in the office of the recorder of the county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said avenues for the purpose of supplying said lands with water.

Thirty-sixth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Redwood road and Olive avenue as all of the foregoing are designated and delineated on that certain map entitled "Resubdivision of Davidson Tract, San Anselmo, Marin County, California," and recorded on the 4th day of August, 1906, in Book 2 of Maps, at page 65, in the office of the recorder of the county of Marin.

And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes and mains, and running or leading to any and all lots or parcels of land fronting upon said Redwood road and Olive avenue for the purpose of supplying said lands with water.

Thirty-seventh.—The right to lay, maintain, repair and remove water pipes and mains over, along and from the following roadways in Larkspur, Marin County, California, whose center lines are described as follows, to wit:

Beginning at a point distant north 53 degrees 02 minutes east 117.50 feet from the northwest corner of lot 1, block 2, Baltimore Park, Sub-division One; thence (1) south 62 degrees 18 minutes west 106 feet; (2) south 67 degrees 46 minutes west 108.30 feet; (3) south 87 degrees 15 minutes west 116.80 feet; (4) south 74 degrees 19 minutes west 219.70 feet; (5) south 38 degrees 19 minutes west 23.80 feet; (6) south 17 degrees 55 minutes west 88.90 feet; (7) south 49 degrees 49 minutes west 45.25 feet to junction of Shady lane and Main road; thence (8) north 62 degrees 21 minutes west 127.20 feet; (9) north 84 degrees 37 minutes west 93.80 feet; (10) south 82 degrees 41 minutes west 47.60 feet; (11) north 57 degrees 04 minutes west 94.30 feet; (12) north 81 degrees 59 minutes west 202.50 feet; (13) north 43 degrees 59 minutes west 103.00 feet; (14) north 66 degrees 14 minutes west 226.40 feet; (15) north 56 degrees 14 minutes west 111.40 feet from end of Course No. 7 or Junction south 22 degrees 11 minutes east 94.35 feet; south 15 degrees 36 minutes east 94.00 feet; north by south 117.80 feet. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said roadways for the purpose of supplying said lands with water.

Thirty-eighth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Ione avenue, Saunders avenue and Yolanda drive, as all of the foregoing are designated and delineated on that certain map entitled "Map of Yolanda Court, Marin County, California," and recorded on the twentieth day of August, 1909, in Map Book Number 3, at page twenty-five (25), in the office of the recorder of the county of Marin. And also the right to lay, maintain, repair and remove, over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said avenue or drive for the purpose of supplying said lands with water.

Thirty-ninth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Elm street, Pine street, Cedar street and Oak street, as all of the foregoing are designated and delineated on that certain map entitled "Map of Linda Vista Tract, San Anselmo, Marin County, California," and recorded on the fifth day of August, 1907, in Book 2 of Maps, at page 94, in the office of the recorder of the county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said streets for the purpose of supplying said lands with water.

Fortieth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Greenfield avenue and Spring Grove avenue, as all of the foregoing are designated and delineated on that certain map entitled "Map of San Rafael Heights, Subdivision Two," and recorded on the twentieth day of July, 1911, in Book 4 of Maps, at page 6, in the office of the recorder of said county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said avenues, for the purpose of supplying said lands with water.

Forty-first.—The right to lay, maintain, repair and remove water pipes and mains over, along and from El Camino Bueno and two Lanes as all of the foregoing are designated and delineated in that certain map entitled "Camino Bueno Tract, Ross, Marin County, California," and recorded on the twenty-sixth day of July, 1911, in Book 4 of Maps, at page 7, in the office of the recorder of the county of Marin. Also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said El Camino Bueno and Lanes, for the purpose of supplying said lands with water.

Forty-second.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Union street from a point about four hundred forty-seven (447) feet distant northerly from Belle avenue, thence northerly along Union street towards Jewel street, a distance of four hundred and thirty (430) feet, as all of the foregoing streets are designated and delineated on that certain map entitled "Map of the City of San Rafael, compiled in 1899 by Geo. L. Richardson, C. E., from official surveys." And also the right to extend said water pipes and mains along Union street in a northerly direction and also the right to lay, maintain, repair and remove over, across and from said Union street all necessary or useful pipes connecting with said water pipe or

main, and running or leading to any or all lots or parcels of land fronting upon said Union street, or elsewhere, for the purpose of supplying said land with water.

Forty-third.—The right to lay, maintain, repair and remove water pipes and mains over, along and from all streets, avenues, lanes and roads, designated and delineated on that certain Map entitled “Map of Marin Heights, Subdivision ‘A’,” recorded on the twenty-third day of October, 1911, in Book 4 of Maps, at page 11, in the office of the recorder of the county of Marin.

And also the right to lay, maintain, repair and remove over, across and from said streets, roads, avenues and lanes all necessary or useful service pipes connecting with said water pipes or mains running or leading to any and all lots or parcels of land fronting upon said streets, roads, avenues or lanes, for the purpose of supplying said lands with water.

Forty-fourth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Madrone Road, Oak street and Klare avenue, as all of the foregoing are designated and delineated on that certain map entitled “Subdivision of lots 14 and 14A of the Bush Tract, San Anselmo, California,” said map having been made by Geo. M. Dodge, C. E., in February, 1912, and a copy of which is on file in the office of said Geo. M. Dodge; and also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said road, street and avenue for the purpose of supplying said lands with water.

Forty-fifth.—The right to lay, maintain, repair and remove water pipes and mains, over, along and from Alderney road, El Cerrito avenue, Oakland avenue, San Francisco boulevard, San Diego avenue, Sonoma avenue, Los Angeles boulevard, Monterey avenue, Santa Cruz avenue, Durham road, Sacramento avenue, Santa Barbara avenue, Pasadena avenue, and Salinas avenue, as all of the foregoing are designated and delineated on that certain map entitled “Short Ranch Subdivision Two, Marin County, California,” and recorded on the third day of July, 1912, in Book 4 of Maps, at page 22, in the office of the recorder of the county of Marin. And also the right to lay, maintain, repair and remove over, across and from said roads, avenues and boulevards, all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said roads, avenues and boulevards for the purpose of supplying said lands with water.

Forty-sixth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Elm street, Linda Vista tract,

San Anselmo, as designated and delineated on that certain map entitled "Map of subdivision of lots 1, 2 and 12, Linda Vista tract, San Anselmo," and recorded in Book 4 of Maps, page 35, in the office of the recorder of the county of Marin. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said street, for the purpose of supplying said lands with water.

Forty-seventh.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Laurel Lane in the Hinkel tract, Fairfax, Marin County, California, as said lane is designated and delineated on that certain map entitled "Map of Subdivision No. 1 of Hinkel Tract, Fairfax, Marin County, California," and recorded in Book 4 of Maps, at page 37, in the office of the recorder of the county of Marin on February 20, 1913.

And also the right to lay, maintain, repair and remove over, across and from said lane all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said land for the purpose of supplying said lands with water.

Forty-eighth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from Laurel lane and Baywood road, Bush tract, Annex, San Anselmo, as designated and delineated on that certain map entitled "Map of Bush Tract Annex, San Anselmo, California," and recorded at page 40 in Book 4 of Maps, in the office of the county recorder of the county of Marin, on May 5, 1913. And also the right to lay, maintain, repair and remove over, across and from said premises, all necessary or useful service pipes connecting with said water pipes or mains, and running or leading to any and all lots or parcels of land fronting upon said street and lane, for the purpose of supplying said lands with water.

Forty-ninth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from all streets, roads, lanes and avenues in "West End Addition," as said streets, roads, lanes and avenues are designated and delineated on that certain map entitled "Map of West End Addition, Marin County, California," and recorded in the office of the county recorder of the county of Marin, State of California, in Book 4 of Maps, at page 58; and also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said streets, roads, lanes and avenues for the purpose of supplying said lands with water.

Fiftieth.—The right to lay, maintain, repair and remove water pipes and mains over, along and from the following described lands, to wit:

Beginning at an iron pipe driven in Saunders avenue, San Anselmo, distant north 33 degrees 25 minutes east 167 feet from the most westerly corner of that certain tract of land which was conveyed by James D. Saunders to Bernard Brenfleck, by a deed dated December 9, 1886, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber 4 of Deeds, at page 258; running thence along the center line of an unnamed street or avenue south 56 degrees 15 minutes east 712.0 feet more or less to the easterly end or terminus of said unnamed street or avenue; and also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said streets for the purpose of supplying said lands with water.

Fifty-first.—The right to lay, maintain, repair and remove water pipes and mains, over, along and from those certain streets, roads, drives and avenues described as follows, to wit:

Beginning at a point in the southwesterly line of Kohn road, which is distant south 56 degrees 49 minutes east 153.34 feet from the most northerly corner of that certain tract of land which was conveyed by Isaac Kohn to Robert A. Carey, by deed dated April 24, 1913, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber 152 of Deeds, at page 107; running thence along the center of a street 40 feet wide and known as "Yolanda Drive" south 26 degrees 30 minutes west 218.9 feet to the center of a street 35 feet wide, known as Rowland avenue; thence along the center of Rowland avenue south 56 degrees 49 minutes east 250 feet more or less to the easterly end or terminus of Rowland avenue. Also, beginning at a point in the center of the above mentioned Rowland avenue distant south 56 degrees 49 minutes east 137.1 feet from the intersection of the center lines of said Yolanda Drive and Rowland avenue and running thence along the center of an unnamed street 30 feet wide, 118.6 feet to the southerly boundary line of the tract of land first hereinabove mentioned. And also the right to lay, maintain, repair and remove over, across and from said premises all necessary or useful service pipes connecting with said water pipes or mains and running or leading to any and all lots or parcels of land fronting upon said roads, drives, avenues and streets for the purpose of supplying said lands with water.

Fifty-second.—The right to lay, maintain, repair and remove water pipes and mains over, along and from those certain streets and avenues

in the town of San Anselmo, county of Marin, being 40 feet in width and their center lines being described as follows:

Beginning at a point in the southerly line of the San Rafael and Olema County road, distant northwesterly, measured thereon 140.0 feet from the most easterly corner of a certain tract of land which was conveyed by James I. Taylor and wife to Robert A. Carey, by deed dated September 22, 1913, and recorded in the office of the county recorder of Marin County, California, in Liber 155 of Deeds, at page 81, which said point of beginning being in the center of Tamal avenue; thence along the center of Tamal avenue south 37 degrees 57 minutes west 270 feet to the center line of Park drive; thence along the center line of Park drive north 52 degrees 03 minutes west 180.0 feet; thence curving to the right on the arc of a circle whose radius is 77.9 feet for a distance of 63.5 feet to the easterly line of that certain public highway known as "Saunders Avenue."

Also, beginning at the point of intersection of Tamal avenue and Park drive, above located, thence along the center line of Tamal avenue south 37 degrees 57 minutes west 10.0 feet; thence curving to the left on the arc of a circle whose radius is 100 feet for a distance of 157.1 feet.

DECISION No. 2280.

STEIGER TERRA COTTA AND POTTERY WORKS, N. CLARK & SONS, CALIFORNIA POTTERY COMPANY, JAMES MILLER, DOING BUSINESS UNDER THE NAME OF OAKLAND ART POTTERY AND TERRA COTTA WORKS, PACIFIC COAST POTTERY AND TERRA COTTA COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

OAKLAND CHAMBER OF COMMERCE, CHAMBER OF COMMERCE OF SOUTH SAN FRANCISCO, CHAMBER OF COMMERCE OF SAN JOSE, STOCKTON CHAMBER OF COMMERCE, GLADDING, McBEAN & COMPANY, *Interveners.*

Case No. 591.

Decided April 9, 1915.

Complainants herein, operating factories producing various clay products, attack the rates of defendant company on clay products from their respective plants to various points in California and particularly from South San Francisco to Oakland and vicinity and to San Francisco, contending that defendant discriminates against complainants in favor of other factories located at Lincoln, Ione and Los Angeles.

Held, Complainants' contention that present rates afford competitors an advantage is no just ground for altering a rate, as freight rates can not be established to provide favorable markets for any particular manufacturer. Certain inconsistencies found to exist in defendant's rates on clay products, defendant is

directed to eliminate within thirty days, within which period it is also directed to file a special tariff containing all its clay and clay products rates so as to minimize the numerous misquotations and misunderstandings arising as regards the present schedule on the part of its agents and shippers. Complaint in all other respects dismissed.

Alfred J. Harwood, for Complainants.

Geo. D. Squirrs, for Defendant.

G. J. Bradley, for Gladding, McBean & Company, intervenor.

S. K. Semple, for Stockton Chamber of Commerce, intervenor.

A. E. Carter, and *M. M. Jones*, for Oakland Chamber of Commerce, intervenor.

L. E. Petree, for San Jose Chamber of Commerce, intervenor.

J. W. Colburn, for South San Francisco Chamber of Commerce, intervenor.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

The complainants are manufacturers of various kinds of pottery and clay products, such as terra cotta, fire brick, conduit, sewer and chimney pipe, tile of various kinds, flue lining, flower pots and similar articles, and maintain factories for that purpose in the vicinity of San Francisco Bay. The factory of the Steiger Terra Cotta and Pottery Works is located at South San Francisco; the factories of the California Pottery Company and the Oakland Art Pottery and Terra Cotta Works are located at East Oakland; the factory of N. Clark & Sons is located at Alameda; and the factory of the Pacific Coast Pottery and Terra Cotta Company is located at San Jose.

The complaint alleges generally that the carload rates charged and maintained by the defendant for the transportation of clay products from South San Francisco, Alameda (Pacific avenue), East Oakland and various other factories to various points named in defendant's Local, Joint and Proportional Tariff No. 730, C.R.C. 1632, are unjust and unreasonable and in violation of the Public Utilities Act, and unduly discriminate in favor of factories located at Lincoln, Ione and Los Angeles and other points named in said tariff and against complainants.

The complaint also specifically alleges that the carload rate on clay products between South San Francisco and Oakland and vicinity and between South San Francisco and San Francisco are unjust, unreasonable and excessive and should not exceed between the former points 50 cents per ton and between the latter points 25 cents per ton, subject to a minimum charge of \$5.00 per car.

The Commission is asked to establish just, reasonable and nondiscriminatory rates between the points involved and require the defendant to publish and file a special tariff to contain all its rates on clay and clay products.

The defendant denies the material allegations of the complaint.

The chambers of commerce of Oakland, South San Francisco and San Jose asked leave and were granted permission to intervene on the behalf of the complainants maintaining factories in those cities. The Stockton Chamber of Commerce asked leave and was granted permission to intervene on behalf of the manufacturers of clay products maintaining factories at Stockton and Hislop, and Gladding, McBean & Company, a corporation engaged in the manufacture of clay products at Lincoln, upon application, was granted similar permission. The latter intervenors deny that any undue preference or advantage is given to the plants in whose behalf they intervene by the present adjustment of the defendant's rates on clay products.

While the complaint calls into question all defendant's carload commodity rates on clay products between points in California, the evidence introduced at the hearing was largely directed to proving the alleged discrimination in favor of the Lincoln and Ione factories. It is contended in this regard that the carload commodity rates on clay products do not bear a proper relation to the carload rates on clay from Lincoln and points on the Ione branch of the defendant to various points and that as a result the manufacturers at Lincoln and Ione have an undue advantage over the complainants in marketing their products. This disadvantage and the resulting discrimination the complainants urge is evidenced by the fact that the aggregate of the transportation charges on the clay shipped into their factories and on the manufactured products shipped thence to markets exceeds the carload rates on the clay products from the Lincoln factory to the same markets. It is said in this connection that due to a shrinkage of approximately 25 per cent in the clay in the process of manufacture that it requires 2,666 pounds of that material to manufacture one ton of clay products, and at the present rate of 85 cents per ton on clay in carload lots from Lincoln or Ione the transportation expense on this amount of material to South San Francisco is \$1.13 and as the carload rate on the finished product thence to San Francisco is 50 cents per ton, the aggregate transportation expense incident to the marketing of a ton of clay products in San Francisco is \$1.63, whereas the manufacturer at the Lincoln factory is required to pay but \$1.25 per ton for the service of transporting its manufactured products from its factory to the same market. It is contended, therefore, that the South San Francisco factory is at a rate disadvantage of 38 cents per ton on its manufactured products in the San Francisco market compared with the Lincoln factory, due to the improper relationship existing between the present rates on clay and clay products. This illustration, it is said, typifies the disadvantage under which all of the complainants market their products in competition with the Lincoln or Ione factories at practically all points on the defendant's lines in California. It is of record that the South San Francisco plant pays a transportation charge on but approximately

75 per cent of its raw materials and that the Lincoln plant pays freight at the rate of 55 cents per ton on approximately $10\frac{1}{2}$ per cent of the raw materials used by it, and if the transportation expense incident to the movement of this amount of raw materials to these factories and the movement thence of a ton of manufactured products to San Francisco be calculated on this basis, these plants will be found to be on an approximate equality in so far as the relative expense in this particular on products shipped to San Francisco is concerned and not considering the transportation expense on other commodities used in these factories in the manufacture of their products. These results would be different for the different factories. However, such a showing does not indicate that the rates on clay and clay products are properly or improperly adjusted as related to each other or that the carrier has discriminated in favor of the Lincoln and Ione factories by its present adjustment of these rates. It is obvious that the advantage or disadvantage in this respect is dependent upon other than transportation conditions, such as the location of the factories with respect to the source of supply of the raw materials and the markets for the manufactured products, and the record shows that these conditions vary with the different plants and hence it is not practicable to determine by such a method the proper relationship between the transportation rates on clay and clay products. Moreover, as the Commission is not empowered to equalize economic conditions of manufacture by rate adjustments or to balance the transportation rates of shippers in localities not similarly located in regard to markets or sources of supply of the raw materials used in manufacture, it would not be proper to do so if such a method of determining the proper relationship of the rates were practicable. This same theory for determining the relationship between the rates on cotton seed and cotton seed products was advanced in a case before the Interstate Commerce Commission—*East St. Louis Cotton Oil Company vs. St. Louis and San Francisco Railroad Company et al.*, 20 I. C. C. 37, and respecting that contention the Interstate Commerce Commission said: "It is not the duty of this Commission to equalize the profit and loss results of competing operations in different localities by overcoming natural and commercial conditions with rate adjustments."

The complainants also contend that the impropriety of the present relationship between the rates on clay and clay products from Lincoln to San Francisco Bay points is evidenced by the fact that the rate on clay products is but 147 per cent of the rate on clay between those points, whereas from Lincoln to San Jose the defendant has voluntarily established and maintains a rate on clay products 200 per cent of the the rate on clay. This contention is further substantiated, the complainants insist, by the fact that the defendant has voluntarily established a relationship of 239 per cent between the rates on crude oil and

refined oils from Bakersfield to Richmond or San Francisco. This conclusion proceeds from the assumption that these rates, having been voluntarily established by the defendant with full knowledge of the surrounding transportation conditions, reflect the true relationship. However, this presumption would with equal force attach to rates voluntarily established by the defendant between other points, and it appears that in many cases the carrier maintains the same rates on clay as it does on clay products and that in other cases, as from Ione to San Jose, an entirely different relationship is maintained. It also appears that the defendant does not maintain a uniform differential between the rates on crude oil and its refined products between California points. Further, it was testified that the rates on clay from Lincoln to San Jose were not fixed with any regard whatsoever to the rates on clay products to that point from the same or different points of origin. In my opinion it would be extremely far-fetched to say that because the defendant had in one case established a rate on clay products between certain points 200 per cent greater than the rate it had established on clay between the same points, that that should fix the relationship of the rates on these commodities in all cases, or because in a certain case it had made the rate on refined oils 239 per cent of the rate on crude oils it should in all cases preserve a similar relationship between the rates on clay and clay products. I am of the opinion that such evidence does not indicate that the difference between the rates on clay and clay products from Lincoln and points on the Ione branch of the defendant to San Francisco Bay points is insufficient or that by reason of the present adjustment of these rates the complainants are discriminated against.

Regarding this same question—that is, the relationship of the rates on clay and clay products from Lincoln to San Francisco Bay points—the complainants introduced into the record in this case parts of the record in case No. 385 (*San Francisco Chamber of Commerce vs. Southern Pacific Company*), which involved the rates on clay from Lincoln and points on the Ione and Valley Springs branch of the defendant to Oakland, Alameda and South San Francisco. It appears therein that all parties interested in that case, including the defendant, were of the opinion that the difference in conditions surrounding the transportation of clay and clay products from Lincoln to San Francisco Bay points justified a lower rate on the clay than on clay products. A witness for the defendant in that case testified that in his opinion the rate on clay should be 80 per cent of the rate on clay products. A witness for the complainant therein testified that in his opinion the relationship should be as 70 to 125. Upon that testimony and other evidence presented in that case the Commission based its opinion that the rate on clay from Lincoln to Oakland, Alameda and South San Francisco should be

reduced from \$1.25 per ton to 85 cents per ton, which rate was duly published and filed with the Commission by the defendant. A review of that evidence does not convince me that the conclusions therein reached are erroneous or that the present rate on clay products from Lincoln to San Francisco Bay points is unduly low when compared with the rate on clay fixed by the Commission in that case.

The complainants also contend that the discrimination in favor of the Lincoln and Ione factories is evidenced by the fact that the defendant has not maintained in its adjustment of the carload rates on clay products from complainants' factories and from Lincoln and Ione to various points the same relationship that it maintains in its class rates from those points. In this connection it is pointed out that while Class E rates are lower from Lincoln than from San Francisco, Oakland and Alameda to points on defendant's line north and east of Tremont and Galt, the reverse is true to all points on defendant's line in the territory west and south of those points to San Luis Obispo on the Coast line and Saugus on the San Joaquin Valley line. To points in this territory the Class E rates are substantially lower from San Francisco, Oakland and Alameda than from Lincoln. This relationship, however, has not been preserved by the defendant in adjusting its carload rates on clay products, as in many cases it has established thereon from Lincoln the same rates as apply from Oakland, Alameda and San Francisco to points to which the latter have an advantage in the class rates. This condition particularly obtains in the rates to points in the San Joaquin Valley and points on the Napa, Santa Rosa and Elmira branches. Thus the Class E rate from San Francisco, Oakland and Alameda is lower than the Class E rate from Lincoln by $3\frac{3}{4}$ cents to Fresno; 4 cents to Bakersfield; 8 cents to Napa; $7\frac{1}{2}$ cents to Calistoga; 8 cents to Santa Rosa and 5 cents to Elmira, whereas to all of these points Lincoln has been accorded the same carload rates on clay products as San Francisco, Oakland or Alameda. It is also pointed out in this connection that the defendant's class rates on which less than carload shipments of clay products are made likewise give to the San Francisco, Oakland and Alameda factories a relative advantage over factories at Lincoln and Ione, but that such relationship is not preserved by the defendant in its carload rate adjustment. The following comparative statement illustrates this contention of the complainants:

| Commodity | From— | To— | Rate in cents per 100 pounds | |
|------------------|-------------------------|------------------|---------------------------------|---------------------------|
| | | | Less than carload (class rates) | Carload (commodity rates) |
| Fire brick ----- | South San Francisco---- | Yountville ----- | 17 | 9 |
| Fire brick ----- | East Oakland ----- | Yountville ----- | 11 | 9 |
| Fire brick ----- | Alameda ----- | Yountville ----- | 11 | 9 |
| Fire brick ----- | Lincoln ----- | Yountville ----- | 25 | 9 |

It is also urged that under the class rates the complainants have a similar advantage over Ione shippers, whereas the carload commodity rates therefrom are so adjusted as to deprive the complainants of this advantage.

The conclusion of the complainants that such a showing indicates that the carload rates on clay products are improperly adjusted presupposes that the class rates properly reflect the difference in transportation conditions surrounding the service of the carrier from the respective factories in the transportation of clay products and that in any adjustment of commodity rates such a general relationship should be preserved. The complainants made no showing that the class rates themselves, considering the service rendered or from any other standpoint, are just and reasonable in and of themselves and do not themselves discriminate as between shipping points.

The class rates from South San Francisco, Oakland and Alameda and points adjacent thereto to points in the San Joaquin Valley were established by the carriers upon the recommendation of the Commission in the *San Joaquin Valley* case. The class rates from San Francisco and points adjacent thereto to points on defendant's lines elsewhere than in the San Joaquin Valley, were not established by this Commission; nor did the Commission establish class rates from either Lincoln or Ione to points in the San Joaquin Valley or elsewhere, and it appears that the defendant has not itself established a consistent scale of class rates from either Lincoln or Ione to other points on its line. The class rates from Lincoln to points south or west of Sacramento are in some cases made by combining the class rates to or from Sacramento and in other cases by applying the Marysville class rates as maxima from Lincoln as an intermediate point and in others the regular class rate scale from Lincoln is lower. Similarly the class rates from Ione to points west or south of Galt, the junction point with the main line, are in many cases made by combining the class rates to or from Stockton or to or from Galt, the rates from the latter point being in many cases the Sacramento class rates applying as maxima. It appears therefore that there is no established relationship between the class rates from Lincoln and Ione and the class rates from San Francisco, Oakland and Alameda and that the differences are purely accidental and can not be said to reflect the differences in the transportation conditions surrounding the movement of clay products in carloads from these respective factories. In fact, the class rates from Lincoln and Ione, among others, are now the subject of an investigation being made by this Commission in Case No. 687, into the class rates of the Southern Pacific Company between all points between San Francisco, San Jose and points north thereof to the Oregon state line, and it would be somewhat inconsistent to say that rates which themselves are in question should form

a standard for other rates. Whether under ideal conditions the commodity rates should uniformly bear a relationship to the class rates is a question which need not be passed upon here, for the reason that in this particular case it seems that the class rates themselves are not adjusted upon any uniformly relative basis and manifestly it would be improper to hold that such rates properly fix the relation for the clay products rates from the respective shipping points. The real question is whether the respective plants are receiving the same service at the same rates. In this respect it appears that to points in the San Joaquin Valley, where the mileage is approximately equal from Lincoln, and from the San Francisco Bay factories, the carload rates on clay products are the same from all those factories. To points north of Tehama, to which the distance from the Lincoln factory is much shorter, that factory has a rate differential per ton under the Bay factories and, on the other hand, to points south of San Jose, to which the distance from the Bay factories is much shorter, those factories enjoy the same differential under the Lincoln factory. To points embraced in the intervening territory the rates appear to be equalized to points to which the distances are similar.

I am of the opinion, and so find, that the defendant has not discriminated against the complainants in adjusting its carload commodity rates on clay products from these respective factories simply because it has not preserved the same differences as obtain between the class rates applying therefrom.

The pleadings herein specially put in issue the reasonableness of the carload rates on clay products from South San Francisco to Oakland and San Francisco and to substantiate this contention the complainants submitted a number of comparisons with other rates voluntarily established and maintained by the defendant. However, but slight evidence was introduced by the complainants as to the similarity of the transportation conditions surrounding the rates with which comparison is made and such comparisons standing alone are of little value. This Commission has frequently held that such comparisons to obtain weight must show that transportation conditions are similar and that the Commission can not base its order upon mere rate comparisons taken from tariffs, even though such tariffs are on file with it, unless it be fully advised of the circumstances and conditions surrounding the rates offered in comparison.

In defense of these rates the defendant introduced considerable testimony to show that they were not unreasonable when measured by the cost of the service. This evidence was presented in Case No. 628, *Steiger Terra Cotta and Pottery Works vs. Southern Pacific Company*, the record in which case it was stipulated should be considered in determining the issues herein. A witness for the defendant in that case

testified that the cost of handling a carload of freight from San Francisco to South San Francisco was approximately \$7.00 per car, not including any expense for the empty car haul from South San Francisco to San Francisco, which would be approximately the same as the loaded car haul in the reverse direction. This estimate embraced the following items of expense:

| | |
|--|----------------|
| Switch engine service, including wages of crews and fuel for and repairs to locomotive----- | \$2 94 per car |
| Maintenance of way----- | 96 per car |
| "Car detention" ----- | 2 25 per car |
| Car repairs ----- | 85 per car |
| Total ----- | \$7 00 per car |

The expense for switch engine service was ascertained by dividing the total switch engine expense at San Francisco during the month of October, 1914, by the number of loaded cars handled at that point during that month. The maintenance of way expense was ascertained by dividing the approximate expense of maintaining the San Francisco yard for an average month during the year 1914 by the number of loaded cars handled at San Francisco during the month of October, 1914. It was testified that the expense for switch engine service and maintenance of way at San Francisco is fairly representative of similar expenses incident to the service between South San Francisco and San Francisco. The expense for "car detention" was based on an average detention of five days for each loaded car shipped from South San Francisco to San Francisco at the "per diem" rate of 45 cents per day. The expense for car repairs was based upon the opinion of the witness. The item of expense for car detention, as explained by the witness, was included to show the minimum value or earning power of a car during the period of time required to handle a carload of clay products from South San Francisco to San Francisco. However, it seems clear to me that such an item should not be included in a cost statement such as this any more so than an amount to represent the minimum earning power of the engine engaged in switching a car or any other facility used in connection with the movement of clay products from South San Francisco to San Francisco. If that expense were eliminated the estimated cost of the service would approximate \$5.00 per car. While the details upon which the average expense for switch engine service, maintenance of way and car repairs was based were not submitted and it is impossible to check those estimates, I am of the opinion that with the exception noted the estimate may be accepted as approximately the cost of the service from South San Francisco to San Francisco. In addition to the line haul service from South San Francisco to San Francisco, for which service the preceding estimate is made, the rate of 50 cents per ton now includes delivery upon industry or private side tracks at San

San Francisco, the switching charge of \$2.50 per car for switching carload freight to or from such tracts having been canceled effective April 1, 1915. The minimum carload weight applying in connection with the rate of 50 cents per ton is 24,000 pounds, and therefore for a minimum charge of \$6.00 per car the carrier would transport a carload of clay products or freight of any other character from South San Francisco to San Francisco and by a subsequent switching service deliver the same upon any team or industry track or private siding in San Francisco. The statement showing the shipments made by the Steiger Terra Cotta and Pottery Works from South San Francisco to San Francisco, which was attached to and made a part of the complaint in Case No. 628, *supra*, discloses that in many cases carload shipments have been made from South San Francisco to San Francisco for less than \$10.00 per car—in some cases for \$6.00 per car. In fact, the statement discloses that the average charge during the past three years on carload shipments of clay products approximates \$11.50 per car. In the past there has been an additional charge of \$2.50 per car for switching to industry tracks or private sidings in San Francisco but, as heretofore stated, this charge has been canceled.

Considering all of these circumstances I am of the opinion that the record in this case is not sufficient to warrant the Commission to order a reduction in the rate from South San Francisco to San Francisco.

It appears from a number of comparisons submitted by the complainants that the defendant has in certain cases adjusted its carload commodity rates on clay products upon no consistent basis, thus on fire and pressed brick in carloads from Ione it maintains a rate of \$1.65 per ton to San Francisco for a distance of 139 miles, and a rate of \$1.25 per ton to Oakland for a distance of 134 miles, and a rate of \$1.65 per ton to San Jose for a distance of 127 miles, whereas on clay products in carloads from Lincoln it maintains a rate of \$1.25 per ton to both San Francisco and Oakland for distances of 117 and 112 miles respectively, and a rate of \$2.00 per ton to San Jose for a distance of 150 miles. By this adjustment the Lincoln factory is enabled to ship its product to Oakland or San Francisco at the same rate, whereas the Ione factory is required to pay to San Francisco a rate 40 cents per ton higher than the rate to Oakland. It also appears that whereas the rate from Ione to Oakland for a distance of 134 miles is \$1.25 per ton, that from Ione to San Jose for a distance of 127 miles the rate is \$1.65 per ton. The defendant has also established and maintains on fire and pressed brick in carloads a rate of \$3.20 per ton to Metz and a rate of \$3.30 per ton to King City from Ione for distances of 229 and 240 miles respectively, whereas the rate on the same commodities from South San Francisco, East Oakland and Alameda (Pacific avenue) to Metz and King

City is \$3.25 per ton, although the distances are considerably shorter. Likewise on fire and pressed brick from Richmond to San Francisco, a distance of 15 miles, the defendant maintains a rate of 45 cents per ton, whereas from Alameda to San Francisco and in the reverse direction for a distance of approximately 9 miles and from Alameda to Richmond for a distance of 15 miles, the defendant maintains and charges a rate of 50 cents per ton on that commodity. On terra cotta, in carloads, from South San Francisco to San Mateo a distance of approximately 9 miles, the defendant maintains a rate of 40 cents per ton, whereas from Lincoln to San Mateo, a distance of approximately 125 miles, the defendant maintains a rate of but \$1.25 per ton. No satisfactory evidence was offered by the defendant in justification of these apparent inconsistencies and there appears to be no reason why the clay products factories in the vicinity of San Francisco Bay should not have as favorable rates under similar conditions as plants situated at other points. The defendant should at once readjust these rates so as to give to each factory the same treatment in so far as transportation rates are concerned, and I recommend that it be required to present to this Commission for its approval within thirty days from the date of this order a tariff eliminating these inequalities.

The record discloses that there has been considerable uncertainty in the past on the part of the carrier's agents as to the proper rate applying on products shipped from complainants' factories and that numerous misquotations of rates have been made, and an examination of the defendant's tariff convinces me that as the rates are now published that there is sufficient basis for the complainants' claim that it is difficult for either the carrier's agents or shippers to determine the correct rates. I am therefore of the opinion that the defendant should provide a special tariff embracing all its rates on clay and the products of clay and thereby afford to shippers of these commodities an opportunity to determine for themselves what the correct rates are in a given case as the law contemplates or to check quotations furnished by the carrier to determine their correctness, and I will accordingly recommend that it be so ordered.

I submit the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and a full investigation of the matters and things involved having been had and being fully apprised in the premises, and basing its order upon the foregoing opinion,

It is hereby ordered that the Southern Pacific Company present to this Commission within thirty (30) days from the date of this order a tariff eliminating the inequalities in the rates on clay products hereinbefore referred to in the opinion preceding this order; and

It is further ordered that the Southern Pacific Company prepare and file with this Commission within thirty (30) days from the date of this order a special freight tariff or schedule embracing all its rates on clay and the products of clay between points within the State of California.

It is further ordered that as to other matters the complaint be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of April, 1915.

DECISION No. 2281.

IN THE MATTER OF THE APPLICATION OF CITY ELECTRIC COMPANY
TO ISSUE AND SELL BONDS TO THE FACE VALUE OF FOUR
HUNDRED TWENTY-SIX THOUSAND DOLLARS.

Application No. 1540.

Decided April 9, 1915.

Applicant, having expended considerable sums for capital purposes out of income, applies for permission to issue \$426,000.00 face value of its 5 per cent bonds for the purposes of reimbursing its treasury for portions of such expenditures and as it only desires to issue \$250,000.00 of such bonds at the present time, application granted, provided that \$250,000.00 face value of bonds shall be sold at the present time at not less than 84, proceeds to be used for purposes as applied for, the balance of such bonds to be issued only under supplemental order.

Chaffee E. Hall, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

City Electric Company, in this application, asks for authority to issue and sell \$426,000.00 face value of its first mortgage 5 per cent thirty-year sinking fund gold bonds at not less than 84 per cent of face value. Applicant desires to use the proceeds to be derived from the sale of these bonds to reimburse its treasury, in part, for capital expenditures amounting to \$871,056.24, as shown in Exhibit "B" filed in connection with the application herein.

City Electric Company was incorporated January 14, 1907, with an authorized stock issue of \$5,000,000.00, divided into 50,000 shares of the par value of \$100.00 each. Of this amount, stock to the par value of \$4,997,100.00 is owned by Great Western Power Company.

City Electric Company has an authorized bond issue of \$5,000,000.00. The bonds bear 5 per cent interest, are dated July 1, 1907, and mature July 1, 1937. Upon any semiannual interest day, the company may, at any time after July 1, 1912, and prior to the date of the maturity of the bonds, pay and redeem all or any part thereof, by paying the face value, accrued interest and a premium of \$50.00 per bond.

The company is obliged to pay to Anglo-California Trust Company, trustee, successor to Central Trust Company of California, resigned, for the purpose of creating a sinking fund the following amounts:

On July 1, 1913, and annually thereafter until July 1, 1917, an amount equivalent to 1 per cent of the bonds outstanding;

On July 1, 1918, and annually thereafter until July 1, 1922, an amount equivalent to $1\frac{1}{2}$ per cent of the bonds outstanding;

On July 1, 1923, and annually thereafter until July 1, 1932, an amount equivalent to 2 per cent of the bonds outstanding;

On July 1, 1933, and annually thereafter until all bonds are redeemed an amount equivalent to $2\frac{1}{2}$ per cent of the bonds outstanding.

The mortgage and deed of trust as amended in pursuance of the order of this Commission made in Application No. 1579, provide that after the company has issued bonds to the face value of \$3,000,000.00, the trustee may certify and deliver the remaining \$2,000,000.00 face value of bonds, only after the president or vice-president of City Electric Company shall have annexed to the resolutions of the board of directors, calling upon the trustee to certify and deliver the bonds shown in such resolution, a certificate, declaring in effect that the bonds called for do not exceed 75 per cent of the actual cash cost or reasonable value, whichever is less, of the extensions, additions and betterments to the plant and system of City Electric Company; and that after deducting all operating expenses (including therein all proper charges for taxes, insurance, renewals, maintenance, rentals and depreciation) the earnings of City Electric Company for twelve months within the fourteen calendar months next preceding, were at least twice the aggregate interest charges accruing on all obligations of City Electric Company, outstanding during said period of twelve months, plus twelve months' interest on the bonds to be certified and delivered upon said certificate. By an agreement, dated February 18, 1912, Great Western Power Company has guaranteed the prompt and punctual payment of the interest and principal of all bonds of City Electric Company. This guarantee does not appear in the mortgage and deed of trust of City Electric Company, but Great Western Power

Company has agreed to endorse upon each bond, when presented, its guarantee in substantially the following form:

For value received, the Great Western Power Company hereby guarantees to the holder of the within bond the prompt and punctual payment according to the terms thereof, of the interest upon, and the principal of, the within bond.

GREAT WESTERN POWER COMPANY,

By -----
President (or a vice president).

By -----
Secretary (or an assistant secretary).

In its annual report for year ended December 31, 1914, applicant reports the status of its bonds as follows:

| | |
|--|-----------------------|
| Bonds outstanding ----- | \$2,512,000 00 |
| Bonds unissued ----- | 2,426,000 00 |
| Bonds in sinking fund (canceled) ----- | 62,000 00 |
| Total ----- | <u>\$5,000,000 00</u> |

Included in the \$2,512,000.00 face value, representing bonds outstanding, are bonds to the face value of \$533,000.00, pledged to secure the payment of notes amounting to \$600,000.00 in favor of Western Power Company.

Applicant reports assets and liabilities as of December 31, 1914, as follows:

Assets December 31, 1914.

| | |
|-------------------------------------|------------------------|
| Fixed capital ----- | \$8,597,681 22 |
| Cash and deposits ----- | 93,091 13 |
| Notes receivable ----- | 59,033 35 |
| Accounts receivable ----- | 941,048 36 |
| Investments ----- | 10,000 00 |
| Materials and supplies ----- | 3,539 20 |
| Sinking fund ----- | 194 04 |
| Treasury securities ----- | 533,000 00 |
| Prepaid expenses ----- | 26,434 82 |
| Unamortized discount on bonds ----- | 46,949 40 |
| Other suspense ----- | 118 64 |
| Construction work in progress ----- | 23,745 08 |
| Total assets ----- | <u>\$10,334,835 24</u> |

Liabilities as at December 31, 1914.

| | |
|--|------------------------|
| Capital stock ----- | \$5,000,000 00 |
| Funded debt ----- | 2,512,000 00 |
| Notes payable ----- | 6,000 00 |
| Accounts payable ----- | 1,013,863 47 |
| Interest accrued ----- | 49,953 00 |
| Reserve for accrued depreciation ----- | 328,026 39 |
| Casualty and insurance reserve ----- | 69,329 27 |
| Reserve invested in sinking fund ----- | 51,170 00 |
| Other reserves from income ----- | 13,865 72 |
| Corporate surplus unappropriated ----- | 1,290,617 39 |
| Total liabilities ----- | <u>\$10,334,835 24</u> |

Applicant reports operating revenues, expenses, etc., for years ended December 31, 1912, 1913 and 1914, as follows:

| Item | 1912 | 1913 | 1914 |
|--|--------------|----------------|----------------|
| Income statement— | | | |
| Operating revenue | \$974,571 61 | \$1,018,981 27 | \$1,074,080 50 |
| Operating expenses | 573,040 67 | 596,555 59 | 796,842 24 |
| Net operating revenue..... | \$401,530 94 | \$422,425 68 | \$277,238 26 |
| Other income | 6,092 89 | 49,003 55 | 53,072 15 |
| Gross corporate income..... | \$407,623 83 | \$471,429 23 | \$330,310 41 |
| Deductions— | | | |
| Bond interest | \$86,583 07 | \$99,218 05 | \$100,214 16 |
| Other interest | 3,219 82 | 36,795 83 | 36,000 00 |
| Liability reserve | | | |
| Rents | | 3,212 40 | 3,041 66 |
| Insurance | | | |
| Sinking fund | 12,870 00 | | |
| Bad debts | | 2,493 78 | 2,649 46 |
| Amortization of debt, discount, etc..... | | | 2,036 71 |
| Total deductions | \$102,672 89 | \$141,720 06 | \$143,991 99 |
| To profit and loss..... | \$304,950 94 | \$329,709 17 | \$186,318 42 |

In Exhibit "B," applicant reports the cost of extensions, additions and betterments to its plant and system from March 1, 1912, to December 31, 1914, as amounting to \$871,056.24. This amount is composed of the following items:

Landed capital—

| | |
|--|-----------|
| Land devoted to production operations..... | \$812 95 |
| Land devoted to distribution operations..... | 15,907 69 |

Total \$16,720 64

Production capital—

| | |
|--|-------------|
| Power plant, buildings and general structures..... | \$11,500 76 |
| Furnaces, boilers and accessories..... | 6,275 02 |
| Steam power plant equipment..... | 1,438 92 |
| Steam service plants..... | 537 69 |
| Miscellaneous production equipment..... | 114 24 |

Total \$19,875 63

Transmission and distribution capital—

| | |
|--|-------------|
| Poles and fixtures—distribution system..... | \$33,700 58 |
| Overhead system—distribution system..... | 51,769 88 |
| Underground conduits—distribution system..... | 313,476 51 |
| Substation, buildings and general structures—distribution system | 39,786 82 |
| Substation equipment—distribution system..... | 89,374 49 |
| Miscellaneous equipment—distribution system..... | 701 86 |
| Line transformers and devices..... | 59,198 86 |
| Electric services | 166,432 82 |
| Meters | 28,262 39 |

| | |
|--|---------------------|
| Steam service distribution | \$7,318 65 |
| Commercial lamps and lamp equipment | 2,232 86 |
| Installation on consumers' premises | 90 86 |
| Total | \$791,346 58 |
| <i>General capital—</i> | |
| General office equipment | \$1,986 95 |
| Miscellaneous equipment | 68 48 |
| Engineering and superintendence | 3,082 58 |
| <i>Law expenses during construction—</i> | |
| Injuries and damages during construction | 6,874 90 |
| Taxes during construction | 128 73 |
| Miscellaneous construction expenditures | 30,718 18 |
| Interest during construction | 253 57 |
| Total | \$43,113 39 |
| Total fixed capital installed | \$871,056 24 |

The evidence submitted by applicant would seem to indicate that approximately \$85,784.79 of the amount expended for the installation of fixed capital represents amounts due Great Western Power Company. I am of the opinion that applicant's indebtedness to Great Western Power Company, in the amount indicated, should be paid out of the proceeds to be obtained from the sale of bonds herein authorized.

The applicant at this time is negotiating for the sale of bonds to the face value of \$783,000.00, which includes bonds to the face value of \$533,000.00 now pledged and authorized to be sold in pursuance of Application No. 342.

Inasmuch as the company contemplates the sale at this time of only \$250,000.00 face value of bonds applied for in this application, it is my opinion that the remaining \$176,000.00 face value of bonds should be issued and sold by applicant only after having obtained a supplemental order to that effect from this Commission.

In view of the facts set forth in the foregoing opinion, I recommend that this application be granted and herewith submit the following form of order:

ORDER.

City Electric Company, having made application to this Commission for authority to issue and sell \$426,000.00 face value of its first mortgage 5 per cent thirty-year sinking fund gold bonds, dated July 1, 1907, as set forth in the foregoing opinion, and a hearing having been held and it appearing that the purposes for which it is desired to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that City Electric Company be given authority and it is hereby given authority to issue and sell, subject to the conditions hereinafter specified, \$426,000.00, face value, of its first mortgage 5 per cent thirty-year sinking fund gold bonds.

The authority herein given is given upon the following conditions and not otherwise:

(1) City Electric Company may issue and sell bonds asked for in this application to the amount of \$250,000.00, face value, at not less than 84 per cent of their face value plus accrued interest thereon.

(2) City Electric Company may issue and sell the remaining bonds—\$176,000.00, face value—asked for in this application only after having obtained a supplemental order to that effect from this Commission.

(3) The proceeds to be derived from the sale of the bonds herein authorized shall be used for the following purposes:

- (a) To pay amount due to Great Western Power Company for materials and supplies furnished to and used by City Electric Company to make extensions, additions and betterments to its plant and system-----\$85,784 79
- (b) To reimburse applicant's treasury for moneys expended out of income to pay for the cost of extensions, additions and betterments to applicant's plant and system-----\$124,215 21

(4) City Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted shall apply to such bonds as shall have been issued on or before March 1, 1916.

(6) The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of April, 1915.

Decisions Nos. 2282, 2283, grade crossings: not printed. See end of volume.

DECISION No. 2284.

IN THE MATTER OF THE APPLICATION OF M. S. PIRES, JR., TO SELL HIS WATER SYSTEM AT CENTERVILLE, CALIFORNIA, TO CENTERVILLE WATER COMPANY, AND OF SAID CENTERVILLE WATER COMPANY TO ISSUE STOCK IN EXCHANGE THEREFOR.

Application No. 1441.

Decided April 9, 1915.

M. S. Pires, Jr., owning a water system in the town of Centerville, which he desires to segregate from his non-utility business, applies for and is granted permission to transfer such system to the Centerville Water Company, which latter named company is authorized to issue \$12,500.00 par value of its capital stock in payment therefor.

Arthur H. Reddington, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

In this proceeding the Railroad Commission of California is asked to grant permission to M. S. Pires, Jr., to sell and transfer a water system at Centerville, Alameda County, California, to the Centerville Water Company, a corporation recently formed and incorporated under the laws of the State of California for the purpose of taking over this water system.

The reason given by M. S. Pires, Jr., for desiring to dispose of said water system is that he has other property interests and desires to separate the water system from such interests in order to facilitate the handling of his business other than the water system.

The Commission is also requested to permit said Centerville Water Company to issue such an amount of the stock of said Centerville Water Company, as the Commission may deem proper, to M. S. Pires, Jr., in payment for said water system.

The application was received on the 23d day of October, 1914, and was first set down for hearing on December 8, 1914. A few days previous to that time the engineering department and the auditing department of this Commission attempted to make the usual investigation in order to report to the Commission preliminary to the hearing, but found that the affairs of applicant, M. S. Pires, Jr., were in such shape as to preclude the possibility of making their report in time for the hearing as scheduled.

The application was called on December 8, 1914, and owing to these circumstances was continued until the engineering and auditing departments of the Commission could investigate and report. Such investiga-

tion and report were made and the application regularly heard on February 19, 1915. In the meantime the applicants had employed Mr. G. Baldwin, an engineer, to value the water system, and Mr. Baldwin appeared as a witness at the hearing and presented his valuation, which gave the present reasonable value of this water system as \$21,565.00. The valuation presented by the engineers of the Railroad Commission gave the present reasonable value as \$11,973.00.

I do not recognize the necessity of entering into extended consideration or comparison of these valuations in this opinion upon which an order will be based, but think it sufficient to say that the difference between the valuation of Mr. Baldwin and that of the Commission's engineers is principally found in an addition of 10 per cent to such valuation by Mr. Baldwin for contractors' profit, 4 per cent for commissions, 4 per cent for contingencies instead of 2 per cent as found by the Commission's engineers, 4 per cent for overhead, 6 per cent found by Mr. Baldwin instead of 3 per cent by the engineers of the Commission for interest, 2 per cent brokerage and commission, \$3,000.00 found by Mr. Baldwin as against \$300.00 given by the Commission's engineers for the value of real estate, and \$2,172.00 found by Mr. Baldwin as against \$1,589.00 found by the Commission's engineers for the value of well-pit. It will be noted that while nearly all of these items are for overhead, Mr. Baldwin has given 4 per cent overhead separately, which I do not regard as material, however, as these figures are given for the purpose of showing the difference between the valuation made by Mr. Baldwin and that made by the Commission's engineers.

Other items, such as wells, pumping equipment, meters, service connections, hydrants and mains, present some slight variations in the valuation found by Mr. Baldwin and that given by the Commission's engineers—in some instances Mr. Baldwin's valuation being less and in others more than the valuation given by the engineers of the Commission. These valuations are filed in the record of the application and for further reference as to details reference is hereby made to them.

It may be proper to say, however, that Mr. Baldwin admitted in his testimony that he was not familiar with land values and that the value which he placed upon the real estate was given to him by applicant, Mr. Pires.

The real estate in question consists of a lot on Center street in the town of Centerville, fifty (50) feet square, more particularly described as follows:

“Commencing at a point on the westerly line of Center street distant thereon ninety-two (92) feet southerly from its intersection with the southerly line of Main street, thence southerly along said westerly line of Center street fifty (50) feet, thence at right angles westerly fifty (50) feet, thence at right angles northerly fifty (50)

feet, thence at right angles easterly fifty (50) feet to the point of commencement.

Being portion of lot six (6) of the Stevens tract as shown on the map of said Stevens tract, Centerville, Washington township, Alameda County, California, which map was recorded December 5, 1881, in Liber 17 of Maps at page 94, Alameda County Records."

Mr. Pires admitted in testimony as to the value of the land that the lot in question was probably worth from \$600.00 to \$800.00, but that he had given the valuation to Mr. Baldwin at \$3,000.00, and also testified at the hearing to such valuation because of it being proven water-bearing land. On this lot are located three wells from which applicant testified he could furnish two million gallons per day, while the daily consumption of the system was less than one half a million gallons. When questioned by the Commissioner who heard the case as to why he went to the expense of sinking the last well when probably one well, and certainly two, would supply all possible demands upon the system, he testified that he had noticed the water becoming low in the wells during the dry season and wanted to be prepared in case the necessity for further supply developed. Applicant should be commended for his thoughtful willingness to put himself in position to discharge the duties to the public which he has undertaken.

As to the matter of placing a value upon the wells, well-pit, pumping equipment, meters, service connections, hydrants and mains of this system, the testimony of applicant gave the Commission but little assistance. He testified that he had never kept any books nor did he have any of the bills for the purchase of the equipment for this system, or bills showing what he had paid for labor, as he had destroyed them. He admitted that some of the equipment was purchased second hand and, that as to the cost and present value of the whole system, the figures which he gave to Mr. Baldwin, and to which he testified at the hearing, were his best estimate.

Counsel for applicant stipulated at the hearing that the valuation found by the Commission, as a result of the present investigation, should not be used as a basis for rate making, as he had not in this application presented such expert testimony as to the value of the real estate, equipment, etc., as he would desire to present in an application to fix a value on which rates should be based.

After a careful consideration of the testimony submitted at the hearing of this application I am convinced, and find as a fact, that the present fair value of this system may be taken, for the purpose of this proceeding, to be \$12,500.00. This increases the value given by the Commission's engineers, but I am satisfied that the addition to such value should be made and as a matter of segregation should be con-

sidered an addition to the value of the real estate, such value for real estate having its additional value, if any, as proven water-bearing land.

I recommend the following order:

ORDER.

The Railroad Commission of California, having been requested to permit the transfer of the ownership of a certain water system located at Centerville, Alameda County, California, from its present owner, M. S. Pires, Jr., to the Centerville Water Company, and a public hearing having been held on said application, and the Railroad Commission finding that the interests of the patrons of this system will best be served by permitting said transfer.

It is hereby ordered that said M. S. Pires, Jr., be and he is hereby granted permission to sell and transfer that certain water system located at Centerville, Alameda County, California, now owned by him, consisting of the wells, well-pit, pipes, meters, service connections, and such other property as is incident to said water system, including certain real estate consisting of a lot on Center street in the town of Centerville, fifty (50) feet square, more particularly described as follows:

“Commencing at a point on the westerly line of Center street distant thereon ninety-two (92) feet southerly from its intersection with the southerly line of Main street, thence southerly along said westerly line of Center street fifty (50) feet, thence at right angles westerly fifty (50) feet, thence at right angles northerly fifty (50) feet, thence at right angles easterly fifty (50) feet to the point of commencement.

Being portion of lot six (6) of the Stevens tract as shown on the map of said Stevens tract, Centerville, Washington township, Alameda County, California, which map was recorded December 5, 1881, in Liber 17 of Maps at page 94, Alameda County Records.”

To the Centerville Water Company in consideration for the payment to him of stock of said Centerville Water Company to the amount of \$12,500.00.

The Centerville Water Company, having applied to this Commission for permission to issue stock in such amount as the Commission might deem proper in the payment for said water system, the Commission finds that the Centerville Water Company should be permitted to issue the stock of said company at par to M. S. Pires, Jr., in payment for said water system, in the sum of \$12,500.00; and

It is hereby ordered that said Centerville Water Company be and it is hereby granted permission to issue the stock of said Centerville Water Company to M. S. Pires, Jr., in the amount of \$12,500.00 in payment for said water system.

The authority hereby granted shall apply only to stock issued by said Centerville Water Company on or before the first day of July, 1915.

The said Centerville Water Company shall report to the Railroad Commission when such stock is issued and delivered to M. S. Pires, Jr.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this 9th day of April, 1915.

Decision No. 2285, grade crossing; not printed. See end of volume.

DECISION No. 2286.

IN THE MATTER OF THE APPLICATION OF CITY ELECTRIC COMPANY
TO MODIFY AND AMEND ITS FIRST MORTGAGE AND DEED OF
TRUST.

Application No. 1579.

Decided April 9, 1915.

Applicant, City Electric Company, applies for permission to amend its trust deed executed to secure the payment of an authorized issue of bonds of \$5,000,000.00, and it appearing that such alterations are clearly in the interest of and to the advantage of bondholders, application granted.

Chaffee E. Hall, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

In this application, City Electric Company asks for authority to amend and modify its mortgage and deed of trust, dated July 1, 1907, executed to Central Trust Company of California as trustee, to secure the payment of an authorized bond issue of \$5,000,000.00. Anglo-California Trust Company has succeeded Central Trust Company of California as such trustee.

The modification and amendments as set forth in Exhibit "A," attached to this application, are in substance as follows:

1. City Electric Company agrees that it will keep an office in the city and county of San Francisco, State of California, also an office in the city of New York, State of New York, where bonds and coupons may be presented for payment; where notices and demands in respect to such bonds and coupons may be served; and further agrees that from time to time it will give written notice to the trustee of the location of such offices. Should the City Electric Company fail to maintain such offices, the bondholders may present the bonds and coupons for payment and serve notices at the office of the trustee in the city and county of San Francisco.

2. City Electric Company proposes to amend its mortgage and deed of trust so that after having issued bonds to the face value of \$3,000,000.00 it may issue additional bonds in amounts not exceeding 75 per

cent of the actual cash cost or reasonable value, whichever is less, of additional property or equipment which shall constitute permanent additions to or extensions, betterments, improvements or enlargements to the property, plant or system of City Electric Company, and which shall be in addition to the property, machinery or equipment owned, or possessed, or contracted for by City Electric Company on December 1, 1914, and exclusive of all property or equipment or additions to, extensions, betterments or improvements, or enlargements of plant or system of City Electric Company, which may have been included in a previous certificate upon which a bond or bonds shall have been certified and delivered, exclusive of all repairs, replacements and renewals, and exclusive of all property, for the cost and value of which the company has been reimbursed by funds obtained through the sale of mortgaged property.

The amendment further provides that none of the remaining \$2,000,-000.00 face value of bonds shall be certified and delivered by the trustee unless after deducting all operating expenses (including therein all proper charges for taxes, insurance, rentals, maintenance, renewals and depreciation), the earnings of City Electric Company for twelve consecutive months within the fourteen calendar months next preceding were at least twice the aggregate interest charges accruing on all obligations of City Electric Company outstanding during said period of twelve months, plus twelve months' interest on the bonds to be certified and delivered upon such certificate.

3. City Electric Company proposes to substitute in lieu of the provision permitting it to use funds derived from the sale of property released from the lien of the mortgage and deed of trust in the purchase of new or additional property, or in carrying out the purposes of its incorporation, a provision limiting the use of such funds to the reimbursement of the company's treasury for the actual cash cost or reasonable value, whichever is less, of property purchased or constructed, or betterments, or improvements made.

At the option of the company, funds obtained from the sale of the property released from the lien of its mortgage and deed of trust may be used to redeem any outstanding bonds, payment of which is secured by this mortgage and deed of trust.

Inasmuch as the amendments and modifications proposed by applicant are clearly in the interest and for the benefit of the bondholders, I recommend that this application be granted and herewith submit the following form of order:

ORDER.

City Electric Company having applied to the Railroad Commission of the State of California for an order authorizing it to execute an agreement, as set forth in Exhibit "A" attached to this application, to

Anglo-California Trust Company, trustee, modifying and amending its first mortgage and deed of trust,

It is hereby ordered that the City Electric Company be and it is hereby granted authority to execute to Anglo-California Trust Company an agreement as set forth in Exhibit "A" attached to the application herein, modifying and amending its first mortgage and deed of trust, dated July 1, 1907.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of April, 1915.

DECISION No. 2287.

STEIGER TERRA COTTA AND POTTERY WORKS

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 628.

Decided April 9, 1915.

Complainant herein attacks all freight rates of defendant company between South San Francisco and San Francisco, and it having recently brought into question certain rates of defendant between the points named, which action was dismissed, complainant being unable to substantiate its allegations, and the present complaint being brought upon the same lines, complaint dismissed.

Alfred J. Harwood, for Complainant.

George D. Squires, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The complainant is a corporation engaged in the manufacture of clay products at South San Francisco. In its complaint filed on June 29, 1914, it alleges that defendant's rate of 50 cents per ton on freight, regardless of classification (except live stock) in carloads, minimum weight 24,000 pounds from South San Francisco to San Francisco, is unjust, unreasonable, excessive and discriminatory and the Commission is asked to reduce that rate to 25 cents per ton of 2,000 pounds subject to a minimum charge of \$5.00 per car and to award reparation in the sum of \$3,915.50 on shipments made during the past three years on the alleged unreasonable and unjust rate.

In Case 591 *Steiger Terra Cotta and Pottery Works et al. vs. Southern Pacific Company*, the reasonableness of this rate was attacked in so far as it applies to carload shipments of clay products from South

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San Francisco to San Francisco. In this case the issues are broadened and in addition to the reasonableness of the rate in its application to freight of all kinds being questioned it is attacked on the ground that it is discriminatory. The evidence introduced concerning this rate was considered in determining the narrower issue in Case 591 *supra* and it was therein concluded that on the showing made the Commission was not justified in granting the relief prayed for and the complaint in that case in so far as it related to the rate herein questioned was dismissed. It follows therefore that the complaint in this proceeding should be dismissed for the same reasons.

I recommend the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and a full investigation of the matters and things involved having been had and being fully apprised in the premises,

It is hereby ordered that the complaint in the above entitled proceeding be and it is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of April, 1915.

DECISION No. 2288.

IN THE MATTER OF THE APPLICATION OF MARIN MUNICIPAL WATER DISTRICT FOR AN ORDER FIXING AND DETERMINING THE JUST COMPENSATION TO BE PAID BY MARIN MUNICIPAL WATER DISTRICT FOR THE LANDS, PROPERTY AND RIGHTS OF NORTH COAST WATER COMPANY.

Application No. 1154.

Decided April 9, 1915.

Above entitled proceeding was initiated upon application of the Marin Municipal Water District for an order fixing the just compensation to be paid for the properties of the North Coast Water Company and, after review of the evidence submitted, in which particular attention is given to land values and allowances for watershed lands and in which it is held that a utility is entitled to participate in such appreciation as may accrue in land values, the sum of \$289,200.00 is established as a fair price for such properties.

George D. Harlan and Curtis H. Lindley, for Marin Municipal Water District.

Charles S. Wheeler and John F. Bowie, for North Coast Water Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for an order of the Railroad Commission fixing and determining the just compensation to be paid by Marin Municipal Water District, a municipal water district, for a portion of the lands, property and rights of North Coast Water Company, a public utility engaged in the sale of water for compensation in a portion of southern Marin County.

This proceeding was brought under the provisions of section 47 of the Public Utilities Act, providing for the fixing and determination by the Railroad Commission of the just compensation to be paid by municipal water districts and other public or quasi-public corporations, for the property or portions of the property of various classes of public utilities, including water companies.

The petition in this proceeding alleges, in part, that Marin Municipal Water District, hereinafter called the water district, was incorporated under the act approved May 1, 1911, providing for the incorporation and organization and management of municipal water districts, and the act of December 24, 1911, amendatory thereto; that the boundaries of the water district are as specifically set forth in the petition; that North Coast Water Company, hereinafter called the water company, is a California corporation engaged in supplying the inhabitants of a portion of Marin County, located within the boundaries of the water district, with water for domestic, culinary and other purposes, and that the company is a public utility; that the water company owns and is in possession of certain franchises, water rights, rights of way, easements, reservoirs, tunnels, water pipes, water mains and distributing plant, water system and other property within the boundaries of the water district, and described in Schedule "A," attached to the petition and made a part thereof; that the water district intends to acquire said property under eminent domain proceedings; and that the board of directors of the water district have resolved to acquire under eminent domain proceedings, or otherwise, that portion of the property of the water company which is described in a schedule attached to the petition, and has authorized the bringing of the necessary proceeding before this Commission. The water district thereupon prays that the Railroad Commission make its order fixing and determining the just compensation to be paid by the water district for said lands, property and rights of the water company. Under stipulation of counsel, the water district has filed certain amendments to its petition, describing with greater particularity a portion of the property to be acquired.

Public hearings on this application were held in San Francisco at various times between July 30th and September 22, 1914. Counsel

asked and were granted permission to file briefs, the last of which has now been filed. The commissioner who presided at the hearing has also made a personal inspection of the lands and property of the water company. On April 4, 1915, an order was duly entered, submitting this proceeding for decision.

The water company owns some 1,929.56 acres of land on the south and west slopes of Mt. Tamalpais, in its upper reaches, in Marin County. By agreement between the parties, 609.96 acres have been excluded from the present proceeding, so that it is the water district's intention to acquire of these watershed lands only 1,319.16 acres. The water company has erected certain small diverting dams in a number of the small streams which flow down Mt. Tamalpais on its southerly and westerly slopes, and by means of pipe lines conducts the water so diverted to certain small reservoirs and tanks, from which the water is distributed in the town of Mill Valley, and also to the Belvedere Land Company, for transmission to Belvedere and distribution therein. In Mill Valley the water is distributed from tanks in four zones.

The lands owned by the water company were originally a portion of the Throckmorton ranch. This property was foreclosed by the San Francisco Savings Union, in 1888 or 1889, and was shortly thereafter transferred to a corporation known as Tamalpais Land and Water Company. This ranch included all of what is now Mill Valley, together with large additional acreages in southern Marin County, including all the watershed lands of the water company, and consisted of some 13,950 acres. The Tamalpais company sold off certain of its ranches at from \$20.00 to \$50.00 per acre, and engaged in the water business for the purpose of making its lands saleable, and of delivering water to purchasers of its property. In 1903 the Tamalpais company determined to separate its water business from its land business, and caused the incorporation of Mill Valley Water Company. By deed, dated January 7, 1904, the Tamalpais company conveyed to Mill Valley Water Company all the grantor's water properties, including all water, water rights and reservations of water upon all streams outside the limits of the lands and property conveyed, flowing from or out of said lands, including inferior riparian rights upon the streams. Thereafter, on September 24, 1904, Mill Valley Water Company conveyed its properties to North Coast Water Company, the stock of which was owned equally by James Newlands, Jr., and William Magee. The consideration paid amounted to \$140,000.00, face value, of the first mortgage bonds of the North Coast Water Company, bearing interest at the rate of four per cent per annum. Both Mr. Newlands and Mr. Magee testified in this proceeding that the property was worth more than the price thus paid. The book cost at the time was something in excess of \$150,000.00.

On February 9, 1904, the Mill Valley Water Company, acting through its president, James Newlands, Jr., filed with the board of trustees of Mill Valley an annual statement in which the value of the property is given as being \$112,550.25. The watershed lands, erroneously stated to amount to 2,277 acres, were valued by Mr. Newlands at \$30.00 per acre, being a total of \$68,310.00. In 1906 William Kent made an offer of \$75,000.00 for one half the stock in the water company. At this time there were bonds outstanding of the face value of \$185,000.00. If Mr. Kent's offer represented the true value of a half interest in the equity in the property in excess of the bonded indebtedness, the property at that time, on this basis, would have been worth \$335,000.00. This includes the 609.96 acres which the water company is to keep. Subsequent to 1906, the water company expended on capital account some \$25,000.00. If it be assumed for the purpose of the computation, that the depreciation in the property has not exceeded the appreciation in the value of the land subsequent to 1906, and that the excluded lands are worth \$100.00 per acre, a rough estimate of the present value of the property to be taken, based on Mr. Kent's offer, would be \$299,000.00. At \$125.00 per acre for the excluded lands, the present value of the property on this basis would be \$283,755.00.

C. E. Sloan, the water company's engineer, presented a computation showing the actual investment in the entire property of the water company (deducting the sum of \$3,000.00 for land sold in 1913) to have been \$209,396.00. James Newlands, Jr., testified that the actual investment consisted of \$140,000.00, face value, of bonds which were issued at par, plus \$70,000.00, making a total actual investment of \$210,000.00.

The water company now claims a present value of the property to be taken, of \$448,923.83. In order to compare this amount, if such comparison have any value, with the original cost, it would be necessary to add thereto the value of the 609.96 acres of land which are to be excluded from the purchase, which property was valued by the witness Falley, at \$150.00 per acre, and assumed by counsel in their briefs to be worth \$100.00 per acre.

For the sake of convenience, I shall refer to certain portions of the water company's property, although I bear in mind the fact that this property must be valued as a whole, as a going concern. For a discussion of the principles of valuation applying in a case of this kind, I refer to the decision this day rendered in Application No. 1141, being the petition of the Marin Municipal Water District for an order fixing and determining the just compensation to be paid by the water district for the entire lands, property and rights of Marin Water and Power Company.

I shall discuss the property of the water company under the following heads:

1. Physical structures.
2. Lands and water.
3. Franchises and going concern.

1. Physical Structures.

Estimates of the cost to reproduce new the physical structures of the water company, and also of their depreciated reproduction value were presented by A. R. Baker for the water district, C. E. Sloan for the water company and R. W. Hawley for the Railroad Commission.

All the engineers agreed on the quantities to be used. Mr. Baker estimated a depreciated reproduction value amounting to \$125,802.00 for the physical structures.

Mr. Sloan and Mr. Hawley agreed on an estimate of \$191,682.00 for the cost to reproduce the physical structures new, but disagreed with reference to the estimated depreciated reproduction value. Mr. Sloan estimated \$151,784.00 under this head and Mr. Hawley, \$148,330.00. Of the difference, \$3,040.00 is accounted for by difference in the method of depreciating overhead charges and \$414.00 by difference in estimating scrap value. The following table shows the depreciated reproduction value of the physical structures of the water company as found by Mr. Sloan and Mr. Hawley:

TABLE No. 1. NORTH COAST WATER COMPANY.
Physical Structures—Comparison Between Sloan and Hawley.

| Item | Cost to reproduce | | Accrued depreciation | | Depreciated reproduction value | | Difference |
|-----------------------|-------------------|------------------|----------------------|-----------------|--------------------------------|------------------|-----------------|
| | Hawley | Sloan | Hawley | Sloan | Hawley | Sloan | |
| Pipes and valves..... | \$108,619 | \$108,619 | \$0,539 | \$27,853 | \$78,080 | \$80,766 | \$2,686 |
| Dams and reservoirs | 41,291 | 41,291 | 1,777 | 1,755 | 39,514 | 39,536 | 22 |
| Buildings and fences | 5,678 | 5,678 | 2,055 | 1,983 | 3,623 | 3,695 | 72 |
| Tanks | 13,922 | 13,922 | 3,338 | 3,087 | 10,584 | 10,835 | 251 |
| Meters and services.. | 14,785 | 14,784 | 4,528 | 4,175 | 10,257 | 10,609 | 352 |
| Hydrants | 3,213 | 3,212 | 611 | 582 | 2,572 | 2,630 | 58 |
| Intakes | 1,315 | 1,317 | 214 | 203 | 1,101 | 1,114 | 13 |
| Tools and fixtures... | 448 | 448 | 260 | 260 | 188 | 188 | ----- |
| Supplies | 1,411 | 1,411 | ----- | ----- | 1,411 | 1,411 | ----- |
| Pavement replaced .. | 1,000 | 1,000 | ----- | ----- | 1,000 | 1,000 | ----- |
| Totals | \$191,682 | \$191,682 | \$43,352 | \$39,898 | \$148,330 | \$151,784 | *\$3,454 |

*Difference due to method of depreciating overhead charges..... \$3,040
Difference due to scrap values..... 414

Mr. Sloan added an item of \$7,281.00 under the head of depreciated reproduction value for paving which was laid by the public authorities over the mains of the water company in cases in which the water company has been at no expense for cutting through the paving. As

shown in the decision this day rendered in Application No. 1141, the laying of paving over mains does not make the mains more valuable. This item will not be allowed.

2. Lands and Water.

(a) Watershed lands.

Estimates of the value of the water company's watershed lands included in this proceeding and totaling 1,319.16 acres for subdivision purposes, if they could be subdivided, were presented on behalf of the water district by Will Falley, and on behalf of the water company by James Newlands, Jr., William Magee, Charles W. Brock and O. C. Cappelmann. The estimates on behalf of the water company were as follows:

| | |
|--------------------------|--------------|
| James Newlands, Jr.----- | \$166,815 00 |
| William Magee ----- | 162,925 00 |
| Charles W. Brock----- | 161,000 00 |
| O. C. Cappelmann----- | 150,550 00 |

Of these witnesses, Newlands and Magee are large owners of stock in the water company, Brock is secretary of the company and is a business associate of Magee, and Cappelmann has been the agent of the North Coast Water Company in the matter of land sales and is an intimate personal friend of Newlands. None of these men placed a value on the land as a unit. Each of them valued the land on the basis of a subdivision into various zones which were separately sold, and each assumed that the property would be sold with sufficient water to take care of at least domestic needs. Mr. Magee testified frankly that if this land were sold off in different parcels, and if the water were secured from the water company, the company could no longer supply the needs of its present patrons in Mill Valley and the Belvedere Land Company. As the present patrons of the water company have the right to a continued supply from the water company, it is evident that the estimates of all these men are based on a legal impossibility. The water company can not at one and the same time use the same water in the service both of its present patrons and of those who might build their homes on the company's present watershed lands, if those lands could be detached from their public use and sold in subdivisions.

I am convinced from the testimony as a whole and from personal inspection of the property that the estimates of these men are very optimistic. A large part of the property is steep hillside land on which it would be almost impossible to build. The only transportation facilities to the major portion of the property at present are the Mount Tamalpais and Muir Woods Railway, on which the fare is prohibitive for ordinary suburban residence purpose, and trails up the mountain. A considerable portion of the property is subject to heavy fogs and severe winds.

Will Falley testified on behalf of the water district and estimated that if the watershed lands were sold as a single tract, they would be worth \$60.00 per acre or \$79,176.00 for the entire tract. If subdivided in large parcels, he would value the property, from a real estate standpoint, at \$65.00 per acre for the entire acreage. By valuing each of a number of parcels separately, he would secure a higher value.

Testimony concerning sales of tracts of land in this immediate vicinity, both with and without water, was also given in behalf of the water district by J. E. Webb, who gave valuable testimony concerning purchases of property in this immediate vicinity by William Kent, and by A. H. Upton and G. W. West.

Testimony concerning the value of the watershed lands regarded solely as producers of water was given in behalf of the water company by C. E. Sloan. Mr. Sloan assumed a wholesale price of water delivered by the water company of 20 cents per thousand gallons, and, after making certain computations with reference to the cost of lands and structures, and of hypothetical costs of maintenance and operation and depreciation in connection with the delivery of water at wholesale by the water company, estimated that these costs would amount to 10 cents per thousand gallons. He reached the conclusion that the difference, amounting to 10 cents per thousand gallons, represents the value of the lands used for the development of water, together with the value of the water. On the basis of 300,000 gallons daily delivery there would be a net revenue, on this basis, amounting to \$30.00 per day, representing the value of the land and water. This would amount to \$10,950.00 per year, which sum, capitalized at seven per cent per annum, would amount to \$156,428.00. Mr. Sloan took as his base rate the rate of 20 cents per thousand gallons charged by the water company to Belvedere Land Company. This Commission has heretofore refused permission to the water company to increase this rate (Vol. 3, Opinions and Orders of Railroad Commission, p. 962), in which case the Commission pointed out that if consideration were given to the original cost or investment theory, this rate should be reduced. This rate contains within itself a return on the water company's lands, and hence Mr. Sloan, in using the wholesale rate charged by this very company, is assuming the very point at issue. The danger of this method of valuing lands and water, is pointed out in the decision in Application No. 1141, to which reference is hereby made. Attention is particularly directed to the decision of the supreme court of this State in *San Diego Land and Town Company vs. Neale*, 88 Cal. 50, in which it was held that estimates of the value of lands based upon anticipated investments, and upon hypothetical expenditures and receipts of money, are of but little assistance in determining the value of lands sought to be condemned.

Attention should be drawn to the fact that the watershed lands of the water company were just as valuable for water purposes when they were purchased as they are today. They produce no more water today than they produced in 1904, nor has their availability for storage purposes been enhanced in the meantime. The evidence in this case shows what was paid for these lands in 1904, what a discerning purchaser considered the property to be worth in 1906, and the general increment in land values in Marin County in the last few years, together with the quite general slump in real estate values in the last year or two. Engineers presenting estimates such as those thus presented seem uniformly to shun, as far as possible, actual facts of the character of those which I have just suggested. It is a curious fact that these computations are being regularly presented to this Commission in cases in which actual cost prices are available and that these cost prices are uniformly considerably lower than the results secured from these hypothetical calculations, although for water purposes the lands are frequently no more valuable than when they were purchased. In my opinion, the supreme court of this State acted most wisely when in the *Ncale* case, *supra*, it drew attention to the dangers of evidence of this character.

W. M. Wells, a witness called on behalf of the Railroad Commission, presented a report giving data concerning the sales of lands both with and without water rights, in the vicinity of the watershed lands of North Coast Water Company. He also testified that, in his opinion, the lands of the water company, herein under consideration, bearing in mind all the uses to which they may reasonably be devoted, including the production of water, are worth \$40.00 per acre, or a total of \$52,748.00. This estimate was based on a number of considerations, including the price paid for these lands in 1904, amounting to a little more than \$30.00 per acre, and also the purchase of the Redwood Canyon property by William Kent. I am mindful of the fact that the original cost of property does not necessarily represent its present value, and also of the fact that it was shown by the water company's counsel on cross-examination that Mr. Wells was in error in certain of his assumptions with reference to the Kent purchase. These matters, together with other matters, pointed out on cross-examination, will be considered in determining the weight to be given to the testimony of Mr. Wells. The motion of counsel for the water company to strike out the testimony of Mr. Wells will be denied. Reference is hereby made to that portion of the decision on Application No. 1141 which deals with a similar motion which was made by counsel in that proceeding, which motion was this day denied by this Commission. This testimony shows that Mr. Wells' investigations gave him means of ascertaining the value of the watershed properties of the water company far in excess of those enjoyed by most men and much of the data presented by him will be of value to the Commission in this pro-

ceeding, although I am of the opinion that his estimate of the present value of this property may safely be increased.

A. R. Baker, on behalf of the water district, presented an estimate of \$54,114.00 as representing the value of the watershed lands, with their water, but he frankly stated that he was not very familiar with real estate values, and but little weight can be given to this estimate.

The parties have agreed upon an estimate of \$5,000.00 for riparian rights belonging to the water company and reserved in one of the deeds under which the water company holds. These riparian rights were severed from land which the water company does not own and were separately conveyed by mesne conveyances to the water company. None of these rights have as yet been utilized by the water company. The water company retains the right to use the water falling upon or rising upon the acreage retained by it, but the water district is to secure the right to all the water above the lands so retained, together with all riparian or other rights owned by the water company except the right to the water falling upon or rising upon the acreage retained by the water company.

(b) Town Lots.

Will Falley estimated that the tank sites and office lots of the water company are worth \$19,650.00. Mr. Sloan placed a real estate value of \$21,540.00 on these lots, and added \$500.00 for each of seven parcels, and \$2,000.00 for the Belvedere reservoir lot for alleged strategic value. He testified that his values were "a sort of an average" of the findings of other persons.

(c) Rights of Way.

The water company owns and utilizes certain private rights of way for pipe lines extending over a distance of approximately four and one half miles. The only evidence with reference to the value of these rights of way was presented by Mr. Sloan, who made an estimate of \$7,720.00. This estimate was based on the value of the fee of adjacent property without severance damages. The water district challenges the estimate on the ground that it assumes a width of ten feet in most cases and twenty feet for the Belvedere pipe line, whereas the water district contends that the width as valued should be confined to the actual width of the pipe. It seems clear that a width must be allowed in excess of the bare width of the pipe, but there is some doubt as to whether that width should be as much as ten feet, unless the water company actually owns an established width of ten feet or more.

The water company also owns the right to lay its pipe through the lands owned by Tamalpais Land and Water Company on January 7, 1904, along a route to be selected and designated by the water company within fifteen days after the mailing of written notice by the Tamalpais Land and Water Company or its successors. James New-

lands, Jr., testified that this right might be worth \$5,000.00, and Mr. Sloan testified that it was worth \$3,585.00. This is the only evidence bearing on the value of this right.

3. Franchises and Going Concern.

The water company is the owner of the right to lay its water mains and pipes through the public streets and highways and also of the franchise to collect rates for water sold by it.

The water company places a value of \$1,000.00 on its franchises, and urges that this sum would not cover the legal expenses necessary to procure a less favorable franchise under existing statutes. As the franchise is of no value to the water district, the water company has appraised the rights of way which it enjoys under them as of the value which it cost the water company to acquire them. No suggestion is made as to how to determine additional value, if any.

The water company also claims a development expense amounting to \$21,656.00 and a going concern value of \$26,157.00.

Whether a substantial allowance should be made for going concern value in a case such as the present, in which the owners of the water company contend that they have never received a revenue sufficient to yield a fair return on the value of the property is open to considerable doubt. The annual reports of the water company to the board of trustees of Mill Valley are on file in this proceeding. The following table, prepared by C. E. Sloan, shows the estimated annual depreciation, the operating expense, the gross income and the amounts remaining with which to pay bond interest and investment profits from July, 1904, to July, 1914:

TABLE No. 2. NORTH COAST WATER COMPANY.
Estimated Annual Depreciation, Operating Expenses, Gross Income and Amounts Remaining with Which to Pay Bond Interest and Investment Profits, July, 1904-1914.

| Date | Depreciable property in original system | 3 per cent de- preciation on original system | Plant additions | 3 per cent de- preciation on additions | Operating ex- pense | Total expense | Gross income | Net receipts |
|---------------------------|---|--|--------------------|--|------------------------|---------------|--------------|--------------|
| July to December, 1904 | \$77,595 | \$1,164 | \$22,000 | \$165 | \$4,232 | \$5,561 | \$5,489 | *\$72 |
| Year of 1905 | 77,595 | 2,328 | 13,078 | 856 | 8,461 | 11,615 | 15,447 | 3,802 |
| Year of 1906 | 77,595 | 2,328 | 18,060 | 1,173 | 6,770 | 10,271 | 19,145 | 8,874 |
| Year of 1907 | 77,595 | 2,328 | 10,720 | 1,455 | 8,817 | 12,600 | 20,595 | 7,995 |
| Year of 1908 | 77,595 | 2,328 | 6,468 | 1,713 | 9,069 | 13,110 | 27,422 | 14,312 |
| Year of 1909 | 77,595 | 2,328 | 5,816 | 1,897 | 9,342 | 13,567 | 25,562 | 11,995 |
| Year of 1910 | 77,595 | 2,328 | 1,668 | 2,009 | 8,924 | 13,261 | 22,154 | 8,893 |
| Year of 1911 | 77,595 | 2,328 | 981 | 2,049 | 9,812 | 14,189 | 22,980 | 8,791 |
| Year of 1912 | 77,595 | 2,328 | 2,668 | 2,104 | 10,314 | 14,716 | 22,947 | 8,201 |
| Year of 1913 | 77,595 | 2,328 | 637 | 2,153 | 10,957 | 15,438 | 24,197 | 8,759 |
| January to July, 1914 | 77,595 | 1,164 | 300 | 1,084 | 5,304 | 7,552 | 11,610 | 4,058 |

*\$72 deficit.

\$3,000 real estate sold in 1913, making net receipts \$11,759.

Based on the investment cost of \$210,000.00, the property earned a return of seven per cent on the investment in the year 1908. Subsequent to that year, however, the revenues have diminished considerably, due to the slump in Marin County, which has had its unmistakable effect on land values as well as on population and consumption of water. During the years 1910, 1911, 1912 and 1913, the water company earned less than four and one half per cent return on its investment of \$210,000.00. During this period it earned less than two per cent on the value of its property now claimed by the company. It would seem apparent under these conditions that the going concern value of the water company, in addition to the value of its physical properties, can not be large. Such allowance as seems fair from all the evidence in the case will be made by virtue of the fact that the water company's property is being taken as a going business concern.

Although the estimates as finally presented by the water company and the water district vary widely, it has been apparent both during the trial of these proceedings and in the preparation of the briefs that both sides have tried fairly to ascertain the facts and to present them.

The fair value of the property, as specified in the findings herein, is considerably in excess of its cost to the water company. I can not in justice to the water company find a lesser amount, unless the company is to be deprived of the right to participate in the increase in land values which has taken place in Marin County subsequent to the acquisition of the property. Under the decision of the Supreme Court of the United States in the *Minnesota Rate Case*, 230 U. S. 352, 455, the company is entitled to a value for its watershed lands equal to the fair value of property of a similar character in the vicinity.

In addition to the sum to be derived from the sale of the property herein described, the water company will no doubt reap a very substantial return from the 609.96 acres of land which have been excluded from these proceedings by mutual agreement. This fact, of course, can not have weight to reduce the allowance to which the water company is entitled in these proceedings.

I submit the following findings:

Findings.

Marin Municipal Water District, a municipal water district incorporated under the laws of the State of California, having filed with the Railroad Commission a petition setting forth the intention of said municipal water district to acquire under eminent domain proceedings, or otherwise, that portion of the lands, property and rights of North Coast Water Company, a public utility operating within the boundaries of said municipal water district, which is described in the schedule attached to the petition herein and marked Exhibit "A," as amended, and asking the Railroad Commission to fix and determine the just com-

pensation to be paid to North Coast Water Company for said lands, property and rights, and public hearings having been held, and Marin Municipal Water District and North Coast Water Company having been accorded full opportunity to present such evidence as they might desire to submit, and each of said parties having taken full advantage of said opportunity and having presented all the evidence which each party desired to present, and the commissioner who heard the evidence having made a personal inspection of said lands and property of said North Coast Water Company, and being fully apprised in the premises,

The Railroad Commission hereby finds as a fact that the just compensation to be paid by Marin Municipal Water District to North Coast Water Company for the lands, property and rights of said company as described in the schedule attached hereto, marked Exhibit "A," and made a part of these findings, is the sum of two hundred eighty-nine thousand two hundred dollars (\$289,200.00).

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of April, 1915.

EXHIBIT "A."

All of the following described property both real and personal, including franchises and privileges, to wit:

All those certain pieces or parcels of land, property rights, water, water rights and privileges, rights of way, interests in land, lands and in water, together with other property, all situate in the county of Marin, State of California, and described as follows, to wit:

First.

1. All that certain piece or parcel of land situate, lying and being in the county of Marin, State of California, and more particularly described as follows:

Beginning at a post set in the ground at the most northerly point of the Rancho Saucelito, said post being situate on a ridge at the head of the principal Arroyo de Corte de Madera del Presidio; thence following down and along the lines of said rancho south 50° 30' east 23.50 chains, or 1551 feet; south 55° 45' east 14.40 chains or 950.4 feet; south 6° east 463.52 feet; thence leaving the line of said Rancho Saucelito south 84° west 60.98 feet to a point on the northernmost side of the right of way of the Mill Valley and Mount Tamalpais Scenic Railway, a corporation, said points being north 16° 5' west 50 feet from Station 99+75.34 of said right of way; thence ascending on said side of said right of way and running parallel with the center line of said right of way, at a distance of 50 feet at right angles therefrom (keeping 50 feet to the right of said center line) to the end of curve No. 117 of said right of way, said Station 99+75.34 being situate at the center of bent No. 3 of trestle No. 11 of said railway (as said railway is now constructed), and lying on the first curve mentioned in the description of said right of way and being distant easterly 4.66 feet from the initial or starting point of said description, as said description is set forth and shown in a certain deed made and executed by Tamalpais Land and Water Company, a corporation, to said Mill Valley and Mount Tamalpais Scenic Railway, and which deed bears date the 23d of August, 1898, and is of record in the office of the county recorder of the county of Marin, State of California, in Liber 52 of Deeds, at page 225 *et seq.*, and is specifically referred to for further and

complete description of said right of way herein referred to, and for every purpose herein; thence leaving said right of way aforementioned and running south $65^{\circ} 12'$ west 50 feet to a point on the center line of said right of way at the end of curve No. 117, said point last named being a corner of the corporate limits of the town of Mill Valley, California; thence along said corporate limit south $48^{\circ} 43'$ west 193.76 feet to the northerly side of Thompson avenue, as the same is laid out and delineated on a certain map entitled "Tamalpais Land and Water Company Map No. 5, showing Eastland and Millwood, Marin County, California," as surveyed by A. D. Avery, C. E., 1897, which map is on file in the office of the county recorder of the county of Marin, State of California, in Map Book 1, page 101; thence along said side of Thompson avenue, the following courses and distances: North $48^{\circ} 38'$ west 26.72 feet; south $41^{\circ} 54'$ west 66.05 feet; south $11^{\circ} 50'$ east 207.30 feet; south $32^{\circ} 38'$ west 160.42 feet; south $3^{\circ} 44'$ east 41.52 feet; south $29^{\circ} 20'$ east 66.86 feet; south $11^{\circ} 58'$ east 161.59 feet to the head of said Thompson avenue; thence crossing the head of said avenue south $65^{\circ} 16'$ east 31.18 feet to the center thereof and to a corner of the corporate limits of said town of Mill Valley; thence still south $65^{\circ} 16'$ east along said corporate limits 435.56 feet; to the nearer side, or at this point the northernmost and westernmost side of Myrtle avenue, as the same is laid out and delineated on said Tamalpais Land and Water Company Map No. 5; thence along said side of Myrtle avenue the following courses and distances: South $2^{\circ} 27'$ east 67.45 feet; south $17^{\circ} 17'$ east 61.90 feet; south $9^{\circ} 55'$ west 48.17 feet; south $81^{\circ} 32'$ west 53.25 feet; south $3^{\circ} 27'$ east 72.64 feet; south $27^{\circ} 33'$ east 72.02 feet; south $37^{\circ} 45'$ west 7.04 feet; south $61^{\circ} 28'$ west 86.91 feet; south $31^{\circ} 36'$ east 54.43 feet; south $16^{\circ} 56'$ east 35.93 feet; south $4^{\circ} 32'$ west 60.59 feet; south $20^{\circ} 18'$ west 141.73 feet; south $40^{\circ} 8'$ west 70.82 feet; south $25^{\circ} 52'$ west 116.68 feet; south $45^{\circ} 50'$ west 38.32 feet; south 82° west 34.63 feet; north $73^{\circ} 34'$ west 42.92 feet; north $61^{\circ} 16'$ west 50.06 feet; north $87^{\circ} 7'$ west 86.55 feet; north $66^{\circ} 40'$ west 27.21 feet; north $52^{\circ} 18'$ west 89.23 feet; south $35^{\circ} 41'$ west 85.66 feet; south $44^{\circ} 13'$ west 98.54 feet; south $18^{\circ} 11'$ west 44.56 feet; south $13^{\circ} 14'$ east 27.66 feet; south $37^{\circ} 59'$ west 23.62 feet; south $7^{\circ} 42'$ west 44.94 feet; south $16^{\circ} 31'$ east 165.92 feet; south $27^{\circ} 36'$ east 38.60 feet; south $17^{\circ} 18'$ east 31.71 feet; south $37^{\circ} 47'$ east 79.53 feet; south $19^{\circ} 34'$ east 24.33 feet; south $47^{\circ} 25'$ east 69.77 feet; south $30^{\circ} 33'$ east 22.16 feet; south $71^{\circ} 31'$ west 2.03 feet; south $87^{\circ} 36'$ west 26.17 feet; north $80^{\circ} 13'$ west 76.08 feet; north $75^{\circ} 46'$ west 101.47 feet; north $84^{\circ} 37'$ west 77.30 feet; south $80^{\circ} 53'$ west 70.29 feet; north $75^{\circ} 21'$ west 55.22 feet; south $79^{\circ} 56'$ west 42.67 feet; south $32^{\circ} 7'$ west 113.03 feet; south $53^{\circ} 57'$ west 35.16 feet; north $77^{\circ} 41'$ west 8.53 feet; north $41^{\circ} 59'$ west 85.01 feet; north $39^{\circ} 32'$ west 170.07 feet; south $43^{\circ} 3'$ west 97.32 feet; south $40^{\circ} 9'$ west 62.24 feet; south $11^{\circ} 15'$ west 67.70 feet; south $13^{\circ} 3'$ west 96.22 feet; south $19^{\circ} 5'$ west 118.26 feet; south $65^{\circ} 35'$ west 25.41 feet; north $61^{\circ} 24'$ west 28.18 feet; thence leaving said side of Myrtle avenue south $28^{\circ} 36'$ west 51.04 feet to the southerly side of Evelyn avenue, as the same is laid out and delineated on said Tamalpais Land and Water Company Map No. 5; thence along said side of Evelyn avenue south $45^{\circ} 8'$ east 60.59 feet to a corner of the corporate limits of said town of Mill Valley; thence leaving said avenue and running along said corporate limits south $24^{\circ} 57'$ east 339.05 feet to the northerly side of Cascade drive south $10^{\circ} 27'$ east 50 feet to the southeasterly side of Cascade drive; thence along said Cascade drive north $79^{\circ} 33'$ east 166.03 feet to a corner of the land deeded by the Tamalpais Land and Water Company to Sylvester C. Simpson, by deed dated August 9, 1898, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber 14 of Deeds, page 495; thence along the lands of said Simpson tract south $26^{\circ} 13'$ west 224.81 feet; south $63^{\circ} 47'$ east 189.93 feet; thence leaving said line south 18° west 794 feet, and south $4^{\circ} 12'$ west 1562.19 feet to a stake set in the ground of Mine Ridge; thence along Mine Ridge north $63^{\circ} 23'$ west 469.02 feet; north $53^{\circ} 5'$ west 924.44 feet; north $32^{\circ} 24'$ west 691.42 feet; thence leaving Mine Ridge south $59^{\circ} 57'$ west 8,285.63 feet to the northernmost corner of Ranch "Y" as said Ranch "Y" is laid down and delineated on a certain map entitled "Tamalpais Land and Water Company Map No. 3," which map was filed for record in the office of the county recorder of the county of Marin, State of California, on the 12th day of December, 1898, in

Map Book 1, page 104; thence north $10^{\circ} 28'$ west 2,736.25 feet to a concrete monument; thence north $28^{\circ} 4'$ west 3,157.23 feet to the northwesterly boundary of the Rancho Saucelito; thence along said boundary line in a northeasterly direction 14,328.2 feet more or less to the point of beginning. All courses in the foregoing and subsequent descriptions of land to be conveyed herein being by true meridian, magnetic variation $16^{\circ} 43'$ east.

Being a portion of lot "D" as said lot "D" was allotted and set off to Samuel D. Throckmorton by final decree of partition, entered in and by the superior court of the said county of Marin on the 25th day of May, 1881, in the action then entitled "Edmond L. Goold, Jr., administrator of the estate of Edmond L. Goold, deceased, and Janet G. Howard, plaintiffs, against Samuel D. Throckmorton and others, defendants," a certified copy of which decree is of record in the office of the county recorder of said Marin County in Liber "V" of Deeds, at page 424 and following, said lot "D" being described in the report of the referee in partition in said action above entitled, and being also laid out and delineated on the map accompanying said report, said lot "D" being part of the tract of land or ranch known and called the "Rancho Saucelito," a patent for which ranch was issued by the government of the United States, dated August 7, 1879, and which patent is of record in the office of said recorder in Book "A" of Patents, at page 429 and following. Reference is hereby made to said patent and said final decree and records thereof, and to said report and accompanying map on file in said action for further or more particular description of said lot "D."

Saving and excepting from the boundaries hereinabove particularly described and set forth, the following tracts or parcels of land, to wit:

1. All that certain parcel of land situate, lying and being in the county of Marin, State of California, and bounded and described as follows, to wit:

Beginning at a 6 by 6 redwood post, said post being the northwest corner of the North Coast Water Company watershed lands, and which bears from the top of a large boulder on the so-called "Rock Spring Trail" north $45^{\circ} 26'$ west 60.79 feet distant; thence along the ridge which divides the watersheds of Boot Jack and Rattlesnake creeks by the following courses and distances: South $79^{\circ} 30'$ east 101.13 feet; south $34^{\circ} 10'$ east 123.88 feet; south $43^{\circ} 9'$ east 379.58 feet; south $73^{\circ} 9'$ east 264.06 feet; south $83^{\circ} 3'$ east 901.98 feet; north $74^{\circ} 30'$ east 487.15 feet; south $74^{\circ} 56'$ east 682.05 feet; south $26^{\circ} 53'$ east 518.10 feet; south $74^{\circ} 25'$ east 133.83 feet; south $73^{\circ} 36'$ east 566.71 feet; north $83^{\circ} 18'$ east 69.49 feet; north $62^{\circ} 20'$ east 192.29 feet, to a stake situated on the so-called "Pipe Line Trail" on the east bank of Rattlesnake Creek, said stake being marked A3+99.91; thence along the said "Pipe Line Trail" by the following courses and distances: South $64^{\circ} 52'$ east 74.53 feet; south $50^{\circ} 35'$ east 85.78 feet; south $76^{\circ} 16'$ east 63.08 feet; south $89^{\circ} 25'$ east 68.88 feet; south $37^{\circ} 44'$ east 71.77 feet; south $4^{\circ} 29'$ west 86.92 feet; south $51^{\circ} 50'$ east 55.99 feet; south $67^{\circ} 51'$ east 54.20 feet; south $40^{\circ} 28'$ east 59.15 feet; north $75^{\circ} 20'$ east 37.92 feet; north $8^{\circ} 10'$ west 90.98 feet; north $3^{\circ} 10'$ west 97.61 feet; north $12^{\circ} 39'$ west 84.49 feet; north $16^{\circ} 44'$ west 57.97 feet; north $48^{\circ} 49'$ east 67.09 feet; south $57^{\circ} 38'$ east 40.87 feet; south $69^{\circ} 43'$ east 79.41 feet; south $33^{\circ} 21'$ east 127.61 feet; south $52^{\circ} 9'$ east 90.36 feet; south $71^{\circ} 14'$ east 79.27 feet; south $40^{\circ} 10'$ east 68.02 feet; south $52^{\circ} 44'$ east 85 feet; north $60^{\circ} 16'$ east 160.99 feet; south $73^{\circ} 34'$ east 135.72 feet; north $78^{\circ} 14'$ east 57.29 feet; south $58^{\circ} 25'$ east 121.24 feet; south $88^{\circ} 47'$ east 79.70 feet; north $61^{\circ} 6'$ east 99.05 feet; south $83^{\circ} 6'$ east 139.45 feet; north $15^{\circ} 44'$ east 153.95 feet; north $4'$ east 52.23 feet; north $68^{\circ} 24'$ east 93.24 feet; north $44^{\circ} 56'$ east 70.25 feet; north $22^{\circ} 11'$ east 45.60 feet; north $51^{\circ} 12'$ east 46.21 feet; south $75^{\circ} 25'$ east 64.35 feet; north $60^{\circ} 26'$ east 44.05 feet; north $9^{\circ} 58'$ east 200.78 feet; north $21^{\circ} 21'$ east 160.20 feet; north $83^{\circ} 43'$ east 71.98 feet; south $10^{\circ} 21'$ east 63.70 feet; south $42^{\circ} 48'$ east 39.66 feet; south $76^{\circ} 15'$ east 113.53 feet; south $88^{\circ} 32'$ east 47.61 feet; north $33^{\circ} 34'$ east 75.49 feet; north $8^{\circ} 32'$ east 79.03 feet; north $5^{\circ} 54'$ west 99.75 feet; north $27^{\circ} 38'$ west 97.54 feet; north $60^{\circ} 32'$ east 92.54 feet; north $35'$ east 113.78 feet; north $18^{\circ} 43'$ east 84.95 feet; north $10^{\circ} 13'$ east 104.53 feet; north $49^{\circ} 11'$ east 49.65 feet; south $59^{\circ} 14'$ east 103.20 feet; south $70^{\circ} 58'$ east 110.56

feet; north 73° 56' east 51.96 feet; north 49° 52' east 87.37 feet; north 89° east 84.79 feet; north 36° 28' east 32.36 feet; north 8° 5' west 160.03 feet; north 13° 2' west 76.50 feet; north 5° 15' east 64.81 feet; north 22° 55' east 100.80 feet; north 47° 44' east 67.29 feet; north 15° 33' west 71.32 feet; north 1° 58' west 70.00 feet; north 54° 52' east 85.95 feet; north 6° 32' east 167.71 feet; north 74° 57' east 104.22 feet; north 44° 22' east 145.34 feet; north 2° 39' east 155.16 feet; north 40° 23' east 190.39 feet; north 26° 28' east 79.24 feet; south 71° 13' east 54.95 feet; south 14° 55' east 142.24 feet; south 35° 24' east 106.12 feet; south 50° east 135.96 feet; south 1° 41' east 158.08 feet; south 17° 25' east 77.54 feet; south 1° 58' east 79.81 feet; south 31° 44' east 117.75 feet; south 48° 42' east 309.10 feet; south 64° 8' east 57.58 feet; south 10° 52' west 76.25 feet; south 45° 45' east 66.71 feet; south 74° 7' east 159.39 feet; south 32° 5' east 184.73 feet; north 88° 12' east 157.80 feet; south 23° 57' east 118.28 feet; south 63° 7' east 157.20 feet; south 14° 11' east 215.09 feet; south 83° 54' east 110.31 feet; south 54° 26' east 272.38 feet; south 86° east 153.24 feet; south 60° 14' east 136.58 feet to a stake marked A99+41.03, said stake being located at the north end of the trestle which supports the pipe line across the Muir Woods Railway, thence down and along the ridge between "Simpson Canyon" and Mill Creek by the following courses and distances to wit: North 33° 53' east 272.41 feet; north 50° 37' east 185.29 feet; north 78° 1' east 156.66 feet; south 89° 6' east 258.87 feet; north 84° 35' east 329.18 feet; north 70° 18' east 273.67 feet; north 88° 29' east 189.69 feet; north 65° 29' east 152.40 feet; south 75° 45' east 231.05 feet to the northwesterly corner of the "Simpson Tract" on the southern boundary of the watershed lands of the North Coast Water Company; thence along said southern boundary by the following courses and distances, to wit: South 63° 47' east 189.93 feet; south 18° west 794 feet; south 4° 12' west 818.81 feet to the southeast corner of the "Pipe Line Tract"; thence along the easterly boundary of said tract by the following courses and distances, to wit: North 77° 38' west 14.79 feet; south 49° 12' west 27.81 feet; south 6° 20' west 68.80 feet; south 74° 43' west 87.33 feet; south 42° 45' west 17.25 feet; south 2° 23' west 61.63 feet; south 78° 51' west 124.24 feet; north 34° 36' west 137.33 feet; south 81° 28' west 64.72 feet; north 57° 10' west 106.23 feet; south 60° 24' west 26.78 feet; south 68° 56' west 224.04 feet; north 17° 55' west 102.98 feet; north 40° 39' west 48.87 feet; north 74° 33' west 45.78 feet; south 50° 39' west 89.10 feet; north 39° 26' west 173.91 feet; north 28° 54' east 89.43 feet; north 25° 57' east 46.39 feet; north 68° 54' west 40.01 feet; south 77° 54' west 60.80 feet; north 80° 43' west 78.66 feet; north 50° 36' west 83.34 feet; north 41° 46' west 83.40 feet; north 3° 11' west 92.40 feet; north 19° 27' west 83.71 feet; north 65° 42' west 32.38 feet; south 72° 56' west 81.53 feet; north 50° 56' west 102.80 feet; north 19° 14' west 44.20 feet; south 59° 57' west 49.45 feet, to a 4-inch by 4-inch stake situated on "Mine Ridge," said stake being the northwesterly corner of the "Pipe Line Tract" hereinbefore mentioned; thence leaving "Mine Ridge" south 59° 57' west 8,285.63 feet along the southern boundary of the North Coast Water Company watershed lands to the northernmost corner of Ranch "Y," as laid down and delineated on a certain map entitled "Tamalpais Land and Water Company Map No. 3," which map was filed for record in the office of the county recorder of the county of Marin, State of California, on the 12th day of December, 1908, in Map Book 1, page 104; thence north 10° 28' west 2,736.25 feet to a concrete monument; thence north 28° 4' west 3,437.23 feet to the point of beginning, and containing 603.90 acres, exclusive of the right of way of the Muir Woods Railway, which crosses the above described lands; together with a right of way for a road, street or highway appurtenant to said parcel of land and extending from a point in the end of Evelyn avenue at the center line thereof where said center line is crossed by the corporate limits of the town of Mill Valley, and running thence for a uniform width of fifty (50) feet on each side of a center line extending northerly and westerly and southerly therefrom at the uniform grade of seven (7) per cent; running thence through the east fork of Mill Creek and the west fork of Mill Creek to the northerly boundary line of said tract of land to which the same is appurtenant.

2. All that certain lot, piece or parcel of land situate, lying and being in the county of Marin, State of California, which was conveyed by the North Coast Water Company, by deed dated the 14th day of May, 1913, to W. G. Salwell, which said deed is recorded in the office of the county recorder of the county of Marin, State of California, in Liber 153 of Deeds, at page 61, and which said parcel of land is particularly described as follows, to wit:

Beginning at a point on Mine Ridge in Marin County, California, which bears south 53° 5' east 41.60 feet from the corner common to the Muir Woods Tract, and the Marin View Acres Tract, and the property of the North Coast Water Company, which corner is marked by a 4 by 4 post set firmly in the ground and standing about one foot above the ground surface; thence north 33° 15' west 44.21 feet; thence north 53° 5' west 140.97 feet; thence north 26° 59' west 158.97 feet; thence north 35° 32' west 329.49 feet; thence north 32° 24' west 203.93 feet, to a corner which bears north 59° 57' east 8,297.63 feet from the northernmost corner of Ranch "Y" as said Ranch "Y" is laid down and delineated on a certain map entitled "Tamalpais Land and Water Company Map No. 3," which map was filed for record in the office of the county recorder of the County of Marin, State of California, on the 12th day of December, 1898, in Map Book 1, page 104, which corner also bears north 59° 57' east 12 feet distant from the northeasterly corner of the Muir Woods Tract of the Mount Tamalpais and Muir Woods Railway Company; thence north 59° 57' east 49.45 feet; thence south 19° 14' east 44.20 feet; thence south 50° 56' east 102.80 feet; thence north 72° 56' east 81.53 feet; thence south 65° 42' east 32.38 feet; thence south 19° 27' east 83.71 feet; thence south 3° 11' east 92.40 feet; thence south 41° 46' east 83.40 feet; thence south 50° 36' east 83.34 feet; thence south 80° 43' east 78.66 feet; thence north 77° 54' east 60.80 feet; thence south 68° 54' east 40.01 feet; thence south 25° 57' west 46.39 feet; thence south 28° 54' west 89.43 feet; thence south 39° 26' east 173.91 feet; thence north 50° 39' east 81.10 feet; thence south 74° 33' east 45.78 feet; thence south 40° 39' east 48.87 feet; thence south 17° 55' east 102.98 feet; thence north 65° 56' east 224.04 feet; thence north 60° 24' east 26.78 feet; thence south 57° 10' east 106.23 feet; thence north 81° 28' east 64.72 feet; thence south 34° 36' east 137.33 feet; thence north 78° 51' east 124.24 feet; thence north 2° 23' east 61.63 feet; thence north 42° 45' east 17.25 feet; thence north 74° 43' east 87.33 feet; thence north 60° 20' east 68.80 feet; thence north 49° 12' east 27.81 feet; thence south 77° 38' east 14.79 feet; thence south 4° 12' west 743.38 feet to a corner which bears north 4° 12' east 10 feet distant from a 2 by 2 stake set in the ground in "Mine Ridge," which stake is located as followed with respect to a certain corner of the Simpson Tract: Beginning at said 2 by 2 stake, thence running north 4° 12' east 1,562.19 feet; thence north 18° east 794 feet to the line of said Simpson Tract; thence along the line of said Simpson Tract north 62° 47' west 189.93 feet; thence north 26° 13' east 224.81 feet to a corner on the southerly line of Cascade drive, and being the northwest corner of the land deeded by the Tamalpais Land and Water Company to Sylvester C. Simpson, by deed dated August 9, 1898, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber 14 of Deeds, at page 495; thence north 62° 6' west 456.50 feet; thence north 75° 42' west 26.03 feet; thence north 53° 5' west 661.29 feet to the point of beginning; said tract containing 10.91 acres.

3. All of those certain railway rights of way, terminal and hotel privileges and privileges of occupancy, which were granted upon portions of the hereinabove described tract of land by the Tamalpais Land and Water Company to the Mill Valley and Mount Tamalpais Scenic Railway Company by deed dated August 23, 1898, and recorded in the office of the county recorder of the county of Marin, State of California, in Liber 52 of Deeds, at page 225.

4. All of those certain railway rights of way, station and privileges, privileges of occupancy of the land within the circular turn at West Point station which were deeded by the North Coast Water Company to the Mill Valley and Mount Tamalpais Scenic Railway Company, by deed dated December 4, 1906, and recorded in the office of the county recorder of said Marin County, in Liber 103 of Deeds, at page 110.

5. Also excepting from said first parcel of land a tract of land described as follows, to wit: A tract of land containing 6.06 acres of land and not including what is known as the "Little Reservoir" and the land surrounding it, which are hereby specified to be a part of and appurtenant to the general water system of the said North Coast Water Company; and not including the right of way specified at the end of said description, and which said "fifth" excepted tract of land is bounded as follows, to wit:

Beginning at a point on the corporate limits of the town of Mill Valley where said corporate limits intersect the southerly side of Evelyn avenue at the end of said avenue; thence along the said corporate limits of said town of Mill Valley by the following courses and distances, to wit: South $45^{\circ} 8'$ east 60.59 feet; south $24^{\circ} 57'$ east 339.05 feet to the northerly line of Cascade drive; thence crossing Cascade drive south $10^{\circ} 27'$ east 50 feet to the southerly line of said Cascade drive; thence along said southerly line of Cascade drive north $79^{\circ} 33'$ east 20 feet to the northwesterly corner of the Little Reservoir tract; thence along said Little Reservoir tract south 30° west 81.37 feet; thence at right angles south 60° east 50 feet; thence at right angles north 30° east 124 feet to the southerly line of Cascade drive at the most easterly corner of said Little Reservoir tract; thence along said southerly line of said Cascade drive north $79^{\circ} 33'$ east 80.32 feet to the northwesterly corner of the Simpson tract; thence along the northwesterly line of said Simpson tract south $26^{\circ} 13'$ west 224.81 feet to the southwesterly corner of the Simpson tract; thence up the ridge between the Simpson Canyon and Mill Creek Canyon by the following courses and distances, to wit: North $75^{\circ} 45'$ west 231.05 feet; south $65^{\circ} 29'$ west 152.40 feet; south $88^{\circ} 29'$ west 189.69 feet; south $70^{\circ} 18'$ west 273.67 feet; south $84^{\circ} 35'$ west 128.19 feet to a stake marked W. D. 10+74.22; thence across Mill Creek Canyon north $44^{\circ} 2'$ east 958.77 feet to the point of beginning.

Through which said tract of land runs a right of way to the concrete dam located on said parcel of land in Schedule A first described, which said right of way is appurtenant to said first parcel of land and an easement upon the land in this exception described; which said right of way is particularly described as follows, to wit:

A strip of land fifty (50) feet wide and lying ten (10) feet on the northerly side and forty (40) feet on the southerly side of a surveyed line described as follows, to wit: Beginning at a point on the corporate limits of the town of Mill Valley at the end of Cascade drive, said point bearing south $10^{\circ} 27'$ east and distant ten (10) feet from a 2-inch by 3-inch stake which is on the northerly side of Cascade drive, and is a common corner of the corporate limits of the town of Mill Valley; running thence south $81^{\circ} 9'$ west 49.67 feet; north $60^{\circ} 30'$ west 367 feet to a point on the northwesterly boundary of the tract of land herein described, which bears south $44^{\circ} 2'$ west 260 feet from the corner of the corporate limits of the town of Mill Valley at the end of Evelyn avenue on the southerly side hereinbefore mentioned as the beginning point of a tract of land in this exception described.

6. Also there is excepted from said first tract of land described, a right of way and easement for a road, street or highway of the uniform width of 60 feet, lying 30 feet on each side of the center line of the Pipe Line trail of which the westerly and northerly 30 feet lie within the parcel of land first herein described and the southerly and easterly 30 feet lie within the tract of land first herein excepted from said first parcel of land; said right of way commencing on said Pipe Line trail at stake on the east bank of Rattlesnake Creek, which said stake is marked "A. 3+99.91"; and running thence easterly and northerly on said Pipe Line trail to a stake marked "A. 99+41.03," said stake being located at the north end of the trestle which supports the pipe line across the Muir Woods Railway, the intermediate courses and distances between said two stakes being given hereinabove in the general description of said parcel of land described in Exception 1. The said right of way hereinabove described being upon the common boundary line of said first parcel of land and the tract of land designated as "Exception 1" and located thirty (30) feet on each side thereof and being appurtenant to and an easement

upon each of said tracts of land for the purposes of a road, street or highway and the laying of pipes and conducting of water thereon.

Second.

All that certain real property situate in the town of Mill Valley, county of Marin, State of California, bounded and described as follows:

Commencing at the common corner to lots numbers 24, 25, 27 and 28 as the same are laid down and delineated on the map next hereinafter mentioned, and running thence along the line dividing lots numbers 24 and 25 north $62^{\circ}34'$ east 89 feet; thence leaving said line north $44^{\circ}41'$ west 84.32 feet; thence south $66^{\circ}38'$ west 89 feet to a point in the line of said lot number 25 which is common to lots numbers 28 and 29; and thence south $43^{\circ}22'$ east 90.3 feet to the point of commencement; being a portion of lot number 25 as laid down and delineated on the map entitled "Plat of Gardner Tract Addition to Eastland, California," surveyed and drawn by George M. Dodge, C. E., November, 1895, and filed December 7, 1895, in the office of the county recorder of the county of Marin, together with the appurtenances and improvements thereon.

Together with a right of way over, along and across a strip of land 10 feet in width off the southeasterly side of said lot number 28 for the purpose of affording ingress and egress to and from the land last described, with the right to locate, construct and maintain therein pipes for the conducting of water in connection with the water system of the North Coast Water Company thereto and therefrom.

Third.

All that certain lot, piece and parcel of land situate, lying and being in the town of Mill Valley, county of Marin, State of California, and more particularly described as follows:

Beginning at the most northwesterly corner of lot number 355 as said lot is laid down and delineated upon said map entitled "Tamalpais Land and Water Company Map No. 5, showing Eastland and Millwood, Marin County, California," as surveyed by A. D. Avery, C. E., 1897, which map is on file in the office of the recorder of said county of Marin, in Map Book No. 1, page 101, which point is in the southwesterly line of Summit avenue; running thence along the southwesterly line of said Summit avenue south $78^{\circ}58'$ east 97.59 feet; thence following the line of said Summit avenue (but not crossing the same) north $81^{\circ}36'$ east 103.22 feet; thence following the same line of said Summit avenue (but not crossing the same) north $61^{\circ}55'$ east 9.27 feet; thence leaving said Summit avenue south $58^{\circ}9'$ east 69.72 feet; thence south $31^{\circ}36'$ west 103.18 feet to the northerly line of Myrtle avenue; thence north $89^{\circ}57'$ west along said northerly line of Myrtle avenue 129.95 feet; thence along said line of Myrtle avenue (but not crossing the same) north $52^{\circ}32'$ west 61.32 feet; thence leaving said Myrtle avenue north $20^{\circ}41'$ west 92.43 feet along the easterly line of lot number 359, as per said map last referred to, to the point of beginning, being a portion of said lot number 355, together with the appurtenances and improvements thereon.

Fourth.

All that certain lot, piece and parcel of land situate, lying and being in the town of Mill Valley, county of Marin, State of California, and more particularly described as follows:

Beginning at a point in the easterly line of Summit avenue, which point is the common corner of lots 352 and 353, as per said map last referred to, running thence south $14^{\circ}53'$ west 155.01 feet along the easterly line of Summit avenue; running thence north $71^{\circ}32'$ east 108.08 feet to the westerly line of Ralston avenue; running thence north $18^{\circ}50'$ east 112.18 feet along the westerly line of said Ralston avenue; thence along the westerly line of said Ralston avenue, north $24^{\circ}53'$ west 30.61 feet; thence leaving said line of Ralston avenue and running south $77^{\circ}57'$ west 87.97 feet to the easterly line of Summit avenue and point of beginning; being a portion of said lot number 353, as laid down and shown upon the map last hereinabove referred to, together with the appurtenances and improvements thereon.

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Fifth.

All that certain lot, piece and parcel of land situate, lying and being in the town of Mill Valley, county of Marin, State of California, and more particularly described as follows:

Beginning at a point in the dividing line between lots 248 and 251, which point is distant south $44^{\circ} 36'$ west 76.53 feet from the point of intersection of said division line with the westerly line of Molino avenue, which point of intersection is also a common corner of lot 248 and lot 251; running thence south $44^{\circ} 36'$ west along said division line 56.02 feet; running thence north $46^{\circ} 44'$ west 250.13 feet to the easterly line of said Molino avenue; running thence north $70^{\circ} 2'$ east along Molino avenue (but not crossing the same) 62.72 feet; and thence south $46^{\circ} 44'$ east 223.18 feet to the point of beginning; being a portion of subdivision "A" of lot 248 as laid down and shown upon said map last referred to, together with the appurtenances and improvements thereon.

Sixth.

All that certain lot, piece or parcel of land situate, lying and being in the town of Mill Valley, county of Marin, State of California, and more particularly described as follows:

Beginning at a point in the division line between lots 248 and 251 as said lots are shown and delineated upon said "Tamalpais Land and Water Company Map No. 5," which point is distant north $44^{\circ} 36'$ east 88.54 feet from the common corner of said lots 248, 251 and 249, all as per said map; running thence north $46^{\circ} 44'$ west 236.70 feet to the easterly line of Molino avenue; thence north $27^{\circ} 31'$ east 45.72 feet; thence south $46^{\circ} 44'$ east 250.13 feet to said division line, and thence south $44^{\circ} 36'$ west along said division line 44.01 feet to the point of beginning; being a portion of subdivision "B" of said lot number 248, as per said "Tamalpais Land and Water Company Map No. 5," hereinabove referred to, together with the appurtenances and improvements thereon.

Seventh.

All that certain lot, piece or parcel of land situate, lying and being in the town of Mill Valley, county of Marin, State of California, and more particularly described as follows:

Beginning at a point in the southerly line of Myrtle avenue, which point is the common corner therein of lots 367 and 368 as shown upon said "Tamalpais Land and Water Company Map No. 5," and which point is also the point of intersection of said line of Myrtle avenue and the division line between said lots 367 and 368; running thence along said line of Myrtle avenue the following courses and distances: North $73^{\circ} 34'$ west 59.14 feet; north $61^{\circ} 16'$ west 43.98 feet; north $87^{\circ} 7'$ west 84.09 feet; north $66^{\circ} 40'$ west 42.53 feet; north $52^{\circ} 18'$ west 43.73 feet to the most northerly corner of said lot number 368; thence along the easterly line of said Myrtle avenue (but not crossing the same) the following courses and distances: South $35^{\circ} 41'$ west 37.60 feet; south $44^{\circ} 13'$ west 90.72 feet; south $18^{\circ} 11'$ west 18.94 feet; south $13^{\circ} 14'$ east 37.58 feet; thence leaving said line of Myrtle avenue and running south $78^{\circ} 35'$ east 129.19 feet to a corner in Tamalpais avenue formed by the intersection of the westerly and northerly lines of said Tamalpais avenue; thence along the northerly line of Tamalpais avenue by the following courses and distances: North $83^{\circ} 26'$ east 107.78 feet; north $73^{\circ} 32'$ east 116.72 feet to said division line at said lots 367 and 368; thence along said division line north $12^{\circ} 55'$ west 45.73 feet to the point of beginning; being a portion of said lot number 368, as laid down and shown on said Tamalpais Land and Water Company Map No. 5, together with the appurtenances and improvements thereon.

Eighth.

All that certain real property situate in the county of Marin, State of California, and bounded and described as follows, to wit:

Commencing at a point in the northeasterly line of Corte Madera avenue, which point is the common corner of lots numbers 202 and 203, as laid down and delineated

on map hereinafter referred to; running thence southeasterly along the said line of Corte Madera avenue 65 feet; thence at right angles northeasterly and parallel with the dividing line between lots 202 and 203 to the center of Corte Madera del Presidio Creek; thence following up the center of said creek in a northerly direction to a point which bears north $50^{\circ} 30'$ east 149.6 feet from the point of commencement; thence south $50^{\circ} 30'$ west 149.6 feet to the point of commencement; being the northwesterly 65 feet of subdivision No. 1 of lot number 203 as laid down and delineated on the map entitled "Tamalpais Land and Water Company Map No. 2," surveyed by M. M. O'Shaughnessy, C. E., 1889, with additions and modifications by L. H. Shortt, C. E., 1891, and duly recorded in the office of the county recorder of the county of Marin, to which map reference is hereby made.

Together with a triangular piece of land fronting upon Corte Madera Creek and extending to the center line thereof in the rear of the southerly 35 feet of subdivision No. 1 of said lot 203 and commencing on the dividing line between the said southerly 35 feet of subdivision No. 1 of lot 203 and the northerly 65 feet of said subdivision at or directly opposite the most westerly corner of the stable now occupying said triangular piece of land; running thence from said point southeasterly and at right angles to said dividing line 26 feet more or less to the center line of said Corte Madera Creek; thence northerly up the center line of said creek to the said dividing line between said southerly 35 feet of subdivision No. 1 of lot 203 and said northerly 65 feet of said subdivision and thence on said dividing line southwesterly 50 feet more or less to the place of beginning, and being what is known as the "stable lot."

Ninth.

All that certain lot, piece or parcel of land situate, lying and being in the town of Mill Valley, county of Marin, State of California, and more particularly described as follows:

Beginning at a point in the southwesterly line of Summit avenue, which point is the common corner therein of subdivision "A" of lot number 130, and subdivision "B" of lot number 131, as said lots are shown upon the Tamalpais Land and Water Company Map No. 5; running thence south $35^{\circ} 51'$ east along said line of Summit avenue 86.27 feet, thence south $55^{\circ} 53'$ west 102.64 feet; thence north $44^{\circ} 40'$ west 65.51 feet, and thence north $41^{\circ} 54'$ east 114.46 feet to the point of beginning; being a portion of subdivision "A" of lot number 130, as laid down and shown upon said Tamalpais Land and Water Company Map No. 5, as filed for record in the office of the county recorder of the county of Marin, State of California, in Map Book 1, page 101, together with the appurtenances and improvements thereon.

Saving and excepting from the land last described certain lands heretofore conveyed by said Tamalpais Land and Water Company to W. C. Barnard, which land so conveyed to Barnard and hereby excepted is described as follows:

Commencing at a point on the southwesterly line of Summit avenue, which point is the common corner therein of subdivision "A" of lot number 130 and subdivision "B" of lot number 131, and running thence southeasterly along said line of Summit avenue 56 feet; thence south $44^{\circ} 54'$ west 20 feet; thence north $35^{\circ} 51'$ west 56 feet, and thence north $44^{\circ} 54'$ east 20 feet to the point of commencement; said excepted land being a portion of subdivision "A" of lot number 130, as laid down and delineated upon said Tamalpais Land and Water Company Map No. 5, filed for record as hereinabove set forth.

Said land last above described is subject to the lease from the Tamalpais Land and Water Company to W. C. Barnard, dated February 4, 1903, and expired November 1, 1907.

Tenth.

The right of way acquired by the Mill Valley Water Company, a corporation, from said Tamalpais Land and Water Company, by deed dated January 7, 1904, and recorded in the office of the county recorder of the county of Marin, in Liber 85 of Deeds, at page 258 *et seq.*, which right of way is through any land part of the Rancho Saucelito owned by said Tamalpais Land and Water Company at the date of said last named deed, other than the lands hereinbefore described and

which have not been conveyed prior to said date of said deed. Which right of way, upon the sale of said land or portions thereof by said Tamalpais Land and Water Company, is to be designated by the North Coast Water Company, its successors or assigns, within fifteen days after the mailing of written notice of sale by said Tamalpais Land and Water Company to it or them. Said right of way, however, to be solely for underground water pipes, to be used in conducting and distributing water to or from the lands hereinabove described incident to said right of way, being the right of entry for the purpose of laying and maintaining said water pipes, same to be at the sole cost, charge, expense and risk of said North Coast Water Company, its successors or assigns.

Eleventh.

All water, water rights and privileges formerly owned, held or enjoyed by the Tamalpais Land and Water Company and acquired by the Mill Valley Water Company, by deed dated January 7, 1904, and recorded in the office of the county recorder of the county of Marin, in Liber 85 of Deeds, at page 258 *et seq.*, and also all water, water rights and privileges, appropriations of water appurtenant to the lands and property, or any part thereof hereinbefore described, and all rights of way over streets, avenues, alleys and lanes of the town of Mill Valley, as the same were by said deed last named acquired and owned, held and enjoyed by said Mill Valley Water Company; and all reservoirs, reservations of water, pipes, pipe lines, flumes, tanks, aqueducts, mains, service pipes, rights of way for water pipes, or in connection with the use of water, water privileges, franchises connected with water or the supplying and use thereof, as the same are connected with or belong to said lands and the property herein described, and as the same were acquired, held or enjoyed by said Mill Valley Water Company through said deed last named.

Twelfth.

All water, water rights and reservations of water acquired by the Mill Valley Water Company, by deed dated January 7, 1904, and recorded in the office of the county recorder of the county of Marin, in Liber 85 of Deeds, at page 258 *et seq.*, upon all streams outside of the limit of the lands and property herein described, which streams flow from or out of said lands hereinbefore described, including inferior riparian rights upon said streams, and which water rights and inferior riparian rights and reservations of water have not been conveyed by said Tamalpais Land and Water Company prior to the date of the last named deed.

Thirteenth.

All rights, reversions and remainders, powers and privileges of every sort belonging to and reserved by said Tamalpais Land and Water Company at the date of said deed last named, and by which said deed last named were acquired by said Mill Valley Water Company, including those that are vested or that are still inchoate or that may at any time accrue as the same are set forth in certain indentures, grants and conveyances in writing heretofore made and executed by said Tamalpais Land and Water Company to the Mill Valley and Mount Tamalpais Scenic Railway, a corporation, whether or not said indentures, grants and conveyances appear of record in the office of the county recorder of said Marin County, State of California.

Fourteenth.

All water, water rights and privileges acquired by said Mill Valley Water Company by said deed last named, including those that are vested or that are still inchoate, or that may at any time accrue, and including the rights and reversions of water, or water rights upon forfeiture or breach of condition, all as the same are provided by and set forth in contracts, agreements or grants executed by said Tamalpais Land and Water Company, and in addition, those executed by said Mill Valley Water Company (howsoever the same may have been acquired) to any person or corporation, municipal or otherwise, whether or not said contracts, agreements or grants may have been recorded.

Fifteenth.

All real estate and interests therein, water and interest in water, and all water rights and privileges, all rights of way, easements, privileges and franchises, pipes, pipe lines, tanks and reservoirs conveyed to said Mill Valley Water Company by said deed last named.

Sixteenth.

All real estate and interests therein, water and interests therein, all water rights, appropriations and privileges and water properties, all easements, rights of way, pipe lines, tanks, reservoirs, privileges and franchises to which the said North Coast Water Company may now be entitled, including those which at any time it may hereafter acquire and those to which it may be entitled hereafter.

An itemized statement of the physical properties included in subdivisions "Fifteenth" and "Sixteenth" of said Schedule A, is hereby given as follows, to wit:

1. Concrete dam located on Mill Creek about 600 feet outside of the westerly town limits of the town of Mill Valley at the end of Cascade drive.

2. Little Reservoir, being a concrete tank located in Simpson canyon on the southwesterly side of Cascade drive and bordering on the westerly town limits of the town of Mill Valley.

3. Belvedere Dam and Reservoir, located on the parcel of land "Eighteenth" described in Schedule "A."

4. *Nine diverting dams*, located as follows: One on Rattlesnake Creek; one on Spike Buck Creek; one on the west fork of Laguna Creek; two on the east or north fork of Laguna Creek; one on the west fork of Cascade Creek; one on the east fork of Cascade Creek; one on Slide Gulch Creek and one on Mill Creek below the concrete dam.

5. Two settling dams, located on the two branches of Mill Creek above the concrete dam.

6. The following redwood tanks:

- (a) Gardner Tank, 100,000 gallons.
- (b) Hueter Tank, 100,000 gallons.
- (c) Coffin Tank, 100,000 gallons.
- (d) Summit Avenue Tank No. 1, 100,000 gallons.
- (e) Edgewood Avenue Tank, 50,000 gallons.
- (f) Molino Avenue Tank, 50,000 gallons.
- (g) Summit Avenue Tank No. 2, 20,000 gallons.
- (h) Schlingman Tank, 20,000 gallons.
- (i) Cascade Tank, 10,000 gallons.

7. The following pipe in the collecting system:

| Size | Kind | Amount in feet |
|---------|-----------------------------|----------------|
| 2-inch | Standard screw, black ----- | 7,707 |
| 3-inch | Standard screw, black ----- | 1,299 |
| 3-inch | Casing ----- | 4,000 |
| 4-inch | Standard screw, black ----- | 260 |
| 4-inch | Casing ----- | 5,102 |
| 4-inch | No. 8 lock converse ----- | 20 |
| 6-inch | No. 14 riveted ----- | 2,187 |
| 8-inch | No. 14 riveted ----- | 12,008 |
| 12-inch | No. 14 riveted ----- | 69 |
| 12-inch | Vitrified pipe ----- | 2,100 |

8. The following pipe in the distributing system:

| Size | Kind | Amount in feet |
|---------|--------------------------------------|----------------|
| ¾-inch | Standard screw, galvanized ----- | 1,659 |
| 1½-inch | Standard screw, black ----- | 620 |
| 2-inch | Standard screw, black ----- | 99,021 |
| 3-inch | Standard screw, black ----- | 13,636 |
| 3-inch | Casing ----- | 2,825 |
| 4-inch | Standard screw, black ----- | 6,913 |
| 4-inch | Casing ----- | 7,799 |
| 4-inch | No. 8 lock converse ----- | 19,446 |
| 4-inch | Cast iron (C) ----- | 10,212 |
| 6-inch | No. 10 lock converse, kalamein ----- | 7,830 |
| 6-inch | No. 8 lock converse ----- | 2,978 |
| 6-inch | Casing ----- | 1,750 |
| 6-inch | Cast iron (C) ----- | 1,900 |
| 5-inch | Casing ----- | 970 |
| 12-inch | Standard screw, black ----- | 20 |
| 12-inch | Cast iron (C) ----- | 63 |

9. The following valves and hydrants:

4 12-inch.
 1 10-inch.
 6 8-inch.
 20 6-inch.
 1 5-inch.
 61 4-inch.
 34 3-inch.
 250 2-inch.

10. The following meters:

1 4-inch.
 1 3-inch.
 3 2-inch.
 9 1½-inch.
 8 1-inch.
 586 ½-inch.

11. The following services and connections: Services and connections, together with all hydrants and sprinkling standards belonging to the company.

12. Buildings:

Cottage and shed at Belvedere Dam.
 Office building of the North Coast Water Company.
 Office building occupied by the Pacific Gas and Electric Company.
 Employees' cottage near office building.
 Plumbing shed near office building.
 Barn and buggy shed near office building.
 Tool shed near office building.

13. General: Stock on hand, office fixtures, general equipment and tools; also all pipes or services or other physical properties built or building and not included in the above list or constructed subsequently to the making of it, and also all maps, surveys, block books, records and office and management data pertaining to or referring to the maintenance, operation or construction of the foregoing water plant.

Seventeenth.

All that certain real property situate in the county of Marin, State of California, bounded and described as follows, to wit:

Lot number 78, as laid down and delineated on the map entitled "Millwood Heights Addition to Mill Valley," which map is on file in the office of the county recorder of said county of Marin, together with a right of way for the purposes of laying, constructing and operating a pipe line, pipes to be laid at least eighteen feet beneath the surface of the ground with the right of ingress and egress for the purpose of repairing or renewing the same, across and over the pieces or parcels of land situate, lying and being in the county of Marin, State of California, described as follows:

First—Commencing at a point on the southerly line of Molino avenue, as laid down and delineated on the map above referred to, distant thereon 140 feet westerly from the westerly line of Whorff street; running thence westerly along said southerly line of Molino avenue 10 feet; thence at right angles southerly and parallel with the westerly line of lots numbers 58, 59, 60, 61 and 62 to the southwesterly line of Hill street; thence southeasterly along said southwesterly line of Hill street to its intersection with the westerly line of lot number 62; thence northerly along said westerly line of lots numbers 62, 61, 60, 59 and 58 to the point of commencement; being the easterly 10 feet of lot number 65 as laid down and delineated on said map above referred to.

Second—The northerly 10 feet of lot number 50, as laid down and delineated upon the map above referred to, said parcels of land also being portions of lot number 8, as laid down and delineated on the "Tamalpais Land and Water Company Map No. 7," which is on file in the office of the county recorder of the said county of Marin, in Map Book 1, page 129.

Eighteenth.

All that certain lot, piece or parcel of land situate, lying and being in the county of Marin, State of California, being portions of lot "D" of the Saucelito or Richardson Rancho, and particularly described as follows:

Commencing at the corner formed by the intersection of the northwesterly line of Sequoia road, as the same is delineated on "Tamalpais Land and Water Company Map No. 7," and the southwesterly line of Edgewood avenue, as the same is laid down and delineated on "Tamalpais Land and Water Company Map No. 5" and on said "Tamalpais Land and Water Company Map No. 7," both of which maps are on file in the office of the county recorder of the said county of Marin; thence following the said northwesterly line of Sequoia road the following courses and distances: South 59° 43' west 179.67 feet; thence south 88° 58' west 237.67 feet; thence south 63° 53' west 120.98 feet; thence leaving said line of said road south 44° 34' west 328.34 feet; thence north 45° 26' west 84.87 feet; thence south 44° 34' west 73 feet; thence north 45° 26' west 560.56 feet; thence north 32° 34' east 89.40 feet; thence north 12° 8' east 99.62 feet; thence north 34° 33' east 37.02 feet; thence north 70° 24' east 142 feet; thence south 68° 17' east 192.20 feet; thence south 88° 41' east 207.75 feet; thence north 86° 12' east 18.04 feet; thence south 58° 2' east 84.88 feet; thence north 67° 1' east 156.44 feet; thence north 50° 29' east 85.03 feet; thence north 88° 31' east 36.87 feet; thence south 50° 1' east 252.87 feet; thence south 44° 26' east 146.59 feet to the point of commencement; containing 9.91 acres of land more or less, together with a right of way extending from the westerly boundary line of said tract where the pipe from the westerly side of Mine Ridge intersects said westerly boundary line along the line of said pipe as now laid in the ground, through its entire length, to a stake marked "A. 99+41.03," said stake being located in the north end of the trestle which supports the pipe line across the Muir Woods Railway, to lay, maintain, repair and remove pipes and mains through the lands wherein said right of way now lies, for the purpose of conducting water to the above described land and supplying the adjacent land with water.

Nineteenth.

All that certain lot, piece or parcel of land situate, lying and being in the county of Marin, State of California, being portion of lot "D" of the Saucelito or Richardson Rancho, and particularly described as follows:

Commencing at a point north $14^{\circ} 50'$ east 334.29 feet and south $75^{\circ} 10'$ east 10 feet from the common corner of lots numbers 58 and 59 as laid down and delineated on the map hereinafter mentioned; running thence south $75^{\circ} 10'$ east 65 feet; thence north $20^{\circ} 28'$ east 59.39 feet; thence north $63^{\circ} 41'$ west 65 feet to the easterly line of a 10-foot alley lying between lots numbers 57, 58 and 59 and 60; thence along the last named line south $26^{\circ} 19'$ west 36.5 feet; thence south $14^{\circ} 50'$ west 36.5 feet to the point of commencement; being a portion of lots numbers 59 and 60 as laid down and delineated on the map entitled "Tamalpais Land and Water Company Map No. 5." which map is on file in the office of the county recorder of said Marin County.

Twentieth.

All that certain lot, piece or parcel of land situate, lying and being in the county of Marin, State of California, and being a portion of lot "D" of the Saucelito or Richardson Rancho, and particularly described as follows:

Commencing at a point in the southerly line of Edgewood avenue common to the two courses south $82^{\circ} 6'$ west 145.55 feet and north $46^{\circ} 56'$ west 281.19 feet, as laid down and delineated on the map hereinafter mentioned; running thence along said Edgewood avenue north $46^{\circ} 56'$ west 75 feet; thence south $43^{\circ} 4'$ west 75 feet; thence parallel with Edgewood avenue south $46^{\circ} 56'$ east 75 feet to the north-westerly line of a 10-foot alley; thence along said alley north $43^{\circ} 4'$ east 75 feet to the point of commencement; being a portion of lot number 10 as laid down and delineated on the map entitled "Tamalpais Land and Water Company Map No. 7," which map is on file in the office of the county recorder of said county of Marin.

DECISION No. 2289.**J. H. BAILES ET AL.***vs.***DEL MAR WATER, LIGHT AND POWER COMPANY.**

Case No. 447.*Decided April 9, 1915.*

REPORT OF THE COMMISSION.**ORDER OF DISMISSAL.**

Complainants having made written request that the complaint in this proceeding be dismissed,

It is hereby ordered that the complaint in this proceeding be, and the same is hereby, dismissed.

Dated at San Francisco, California, this 9th day of April, 1915.

DECISION No. 2290.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF PROMISSORY NOTES OF THE FACE VALUE OF SIXTY THOUSAND DOLLARS AND THE EXECUTION OF A DEED OF TRUST TO SECURE THE SAME.

Application No. 1109.

Decided April 9, 1915.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

This Commission having on May 2, 1914, authorized Sacramento Warehouse Company to issue two promissory notes of the face value of \$10,000.00 and \$50,000.00, respectively, under certain conditions specified in the order, and applicant now desiring to issue ten notes of the face value of \$5,000.00, each in lieu of the \$50,000.00 note heretofore authorized,

It is hereby ordered that Sacramento Warehouse Company be and it hereby is authorized to issue ten notes of the face value of \$5,000.00 each in lieu of the \$50,000.00 note authorized to be issued by order of this Commission heretofore made on this proceeding on May 2, 1914; provided, however, that the terms and conditions attached to the issue of said note of \$50,000.00 shall apply to the issuance of these ten notes of \$5,000.00 each.

It is further ordered that the time within which applicant may issue the notes herein authorized to be issued be and the same is extended to and including October 31, 1915.

Dated at San Francisco, California, this 9th day of April, 1915.

Decisions Nos. 2291 and 2292, grade crossings; not printed. See end of volume.

DECISION No. 2293.

IN THE MATTER OF THE APPLICATION OF VALLEJO AND NORTHERN RAILWAY COMPANY FOR AN ORDER PERMITTING THE CROSSING AT GRADE OF ITS TRACKS WITH THE TRACKS OPERATED BY THE SOUTHERN PACIFIC COMPANY, AT AND IN THE TOWN OF SUISUN, SOLANO COUNTY, CALIFORNIA.

Application No. 407.

Decided April 14, 1915.

Vallejo and Northern Railroad Company applies for permission to cross tracks of Southern Pacific Company in the town of Suisun, and it then appearing that a number of trains would run over this crossing daily an undergrade crossing

was ordered. Subsequently Northern Electric Railway Company succeeded to the business of applicant, and it being in no position financially at the present time to bear its share of the cost of such construction, and it also appearing that trains are not operated over this crossing as frequently as first contemplated, extension of time to and including December 31, 1916, made, in which separation of such grades shall be accomplished.

T. C. Gregory, for Applicant.

Gco. D. Squires, for Southern Pacific Company.

C. E. Mayfield, for Town of Suisun.

Beryl L. Gregg, for Town of Fairfield.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

SUPPLEMENTAL OPINION.

This application was originally filed with the Commission on February 15, 1913. Public hearings were held thereafter, and on April 25, 1913, the Commission made its order granting permission for the Vallejo and Northern to cross beneath the track of Southern Pacific Company, and incidentally requiring that Union avenue, the street along which the Vallejo and Northern is located, should also be carried under the track at the same time. The expense of this construction was to be paid one half by the Vallejo and Northern Railroad Company and one half by the Southern Pacific Company, and all damages to abutting property were to be paid by the towns in which they occurred. The applicant was given one year from the date of the order in which to complete this subway and place it in operation.

The order also provided for a grade crossing, pending the completion of the subway. On March 18, 1914, upon representation from the applicant that it would be unable to do this work by the time required in the order, the Commission made an *ex parte* order granting an extension of time for the completion of the work to December 31, 1914.

Subsequent to the original application, the Northern Electric Railway Company succeeded to all the rights, properties and franchises of the Vallejo and Northern, and at a still later date, about the first of October, 1914, a receiver was appointed for the entire property of the Northern Electric Railway Company. Mr. John D. Coghlan, the receiver so appointed, on March 30, 1915, filed the application now under consideration, requesting a modification of the original order entered in this matter, the modification desired being an extension of time of such length that at its expiration the company would find itself possessed of funds enough to carry on the construction ordered by the Commission. No definite date for this extension was asked for. A hearing was held at Suisun on April 6, 1915, at which all interested parties were represented.

When the original application was filed, this line extending from Vacaville to Suisun was to have been part of a larger line, and it was supposed that frequent service would be given over this crossing. The original project has not yet been completed and the present train service amounts to but six passenger and two freight cars per day.

The cost of this subway construction, exclusive of any abutting damages which may accrue, is estimated to be \$96,000.00, one half of which, or \$48,000.00, under the Commission's order, will be borne by the Northern Electric. The Northern Electric Railway Company, as a whole, is not in a position to spend any such sum for this construction at the present time, and this particular branch of that system is unable to pay much more than its operating expenses. There is no doubt but rather than go to the expense of this construction at this time, even if it were possible to raise the money, the Northern Electric would prefer to stop its cars at the crossing and abandon the service through the town of Suisun. This service, as was testified, is a great convenience to Suisun, as it enables the residents to secure direct and convenient passenger and freight service to Vacaville and other points along the route of this branch line.

The operation as carried on over the Southern Pacific tracks at present, is under the protection of a flagman stationed there at all times, at an expense paid equally by the Northern Electric and the Southern Pacific companies. The general manager of the Northern Electric, who was formerly division superintendent of the Southern Pacific on this division, testified that in his opinion this method of operation was comparatively free from danger, and the attorney for the Southern Pacific Company stated that the operating officials of his company did not feel that the operation of the crossing was dangerous, and that he felt, further, that neither company would feel justified in spending the amount of money necessary for a subway to serve the infrequent operation now rendered by the Northern Electric.

I am of the opinion that the Northern Electric Company should be granted two years' additional time to complete this subway, unless operating or physical conditions should change at the crossing in the mean while, and I recommend the following form of order:

SUPPLEMENTAL ORDER.

John P. Coghlan, receiver for the Northern Electric Railway Company, successor in interest to the Vallejo and Northern Railroad Company, having applied to the Commission for an extension of time in which to build the subway ordered by the Commission in its original order in this matter, and a public hearing having been held at which all interested parties were represented; and it appearing that it is right and proper that this extension of time should be granted,

It is hereby ordered that John P. Coghlan, receiver of the Northern Electric Railway Company, successor in interest to the Vallejo and Northern Railroad Company, be and he hereby is granted an extension of time to and including December 31, 1916, to complete and place in operation the subway ordered in the original order, provided that any change in the conditions surrounding this crossing, in the operation of trains, or in the physical surroundings, shall be sufficient justification for the Commission to order the construction of this subway at an earlier date; and provided, further, that the Commission reserves the right to make such further orders regarding this crossing as to it may seem right and proper.

All of the other conditions and requirements of the original order shall remain in full force and effect.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of April, 1915.

DECISION No. 2294.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF GENERAL AND REFUNDING MORTGAGE GOLD BONDS TO THE PAR VALUE OF THREE HUNDRED SIXTY-SEVEN THOUSAND DOLLARS.

Application No. 1572.

Decided April 14, 1915.

Applicant having been previously authorized to issue a certain amount of bonds, portions of which were for the purposes of reimbursing its treasury, now applies for and is authorized to issue and use \$367,000.00, face value, of such bonds for sinking fund purposes.

Wm. B. Bosley, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

This is an application by Pacific Gas and Electric Company to issue \$367,000.00 of its general and refunding mortgage gold bonds to the Bankers Trust Company of New York, corporate trustee, under its general and refunding mortgage to be held as part of the sinking fund provided for in said mortgage.

Heretofore, on June 30, 1914, upon Application No. 1188, this Commission authorized Pacific Gas and Electric Company to issue securities for certain specified purposes, including the following:

“To discharge and refund obligations incurred, and reimburse its treasury for the acquisition of property and for the construction, completion, extension and improvement of its facilities, as shown on pages 15 and 16 of Exhibit “A,” attached to the petition herein, proceeds not to exceed \$4,586,661.00.”

The applicant now requests authority to use \$367,000.00 of its general and refunding mortgage gold bonds for sinking fund purposes and to apply \$367,000.00 of bonds upon the total as above indicated of the sum of \$4,586,661.00.

The applicant holds \$367,000.00 of these bonds in its treasury, and I would be willing to recommend that the applicant be granted authority to sell these \$367,000.00 of bonds to reimburse its treasury. I am disposed, therefore, under all of the conditions of this particular case to recommend that the applicant be allowed to issue \$367,000.00 of bonds to its corporate trustee under its general and refunding mortgage for sinking fund purposes.

Accordingly, I recommend the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to this Commission for authority to issue \$367,000.00, face value, of its general and refunding mortgage gold bonds, as recited in the foregoing opinion, and a hearing having been held and it appearing that the purposes for which applicant herein proposes to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Pacific Gas and Electric Company be granted authority and it is hereby granted authority to issue \$367,000.00 of its general and refunding mortgage gold bonds to Bankers Trust Company of New York, corporate trustee, under its general and refunding mortgage.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The \$367,000.00 of bonds herein authorized to be issued shall be issued to Bankers Trust Company of New York, for purposes of the sinking fund provided under applicant's general and refunding mortgage.

(2) The bonds herein authorized to be issued shall be deemed to be a part of the bonds hereinbefore authorized to be issued by this Commission in Decision No. 1632, upon Application No. 1188, for the following purposes:

“To discharge and refund obligations incurred, and reimburse its treasury for the acquisition of property and for the construction,

completion, extension and improvement of its facilities, as shown on pages 15 and 16 of Exhibit "A," attached to the petition herein, proceeds not to exceed \$4,586.661.00."

(3) The authority herein granted to issue bonds shall apply to such bonds as shall have been issued on or before December 31, 1915.

(4) Within thirty days after the issuance of the bonds herein authorized, the applicant shall report such issue to this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of April, 1915.

DECISION No. 2295.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPERVISORS OF SAN MATEO COUNTY, CALIFORNIA, FOR PERMISSION TO ESTABLISH A GRADE CROSSING OVER THE TRACK OF THE SOUTHERN PACIFIC COMPANY AT HOLY CROSS CEMETERY, AND TO ABANDON THE UNDERGRADE CROSSING AT THAT POINT; AND IN THE MATTER OF THE CROSSING OF THE TRACK OF THE UNITED RAILROADS OF SAN FRANCISCO AND OF THE SOUTH SAN FRANCISCO RAILWAY AND POWER COMPANY OVER THE TRACK OF THE SOUTHERN PACIFIC COMPANY AT GRADE, AT THE SAME POINT.

Application No. 1407.

Decided April 15, 1915.

County of San Mateo, contending that the present crossing of Mission road under the tracks of the Southern Pacific Company is rendered impassable during the rainy season, applies for permission to construct such road at grade across the railroad company's tracks, and it appearing that the few trains operating over these tracks daily would not render a grade crossing dangerous, application granted, provided applicant herein shall bear all expenses of such crossing, including the installation of an automatic flagman. United Railroads of San Francisco and South San Francisco Railroad and Power Company also permitted to construct their tracks at grade over track of Southern Pacific Company at this point.

G. D. Ferrell, for the Board of Supervisors of San Mateo County.

Geo. D. Squires, for the Southern Pacific Company.

A. L. Clark, for the Southern Pacific Company.

Wm. M. Abbott, for the South San Francisco Railroad and Power Company and the United Railroads of San Francisco.

Garrett W. McEnerney, represented by *Walter Rothschild*, for the Roman Catholic Archbishop of San Francisco, a corporation sole.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

This is an application by the board of supervisors of San Mateo County, in which the applicant asks for permission to extend Mission road over and across the track of the Southern Pacific Company at Holy Cross cemetery, San Mateo County, California, and to abandon the present undergrade crossing at that point. The track of the Southern Pacific Company at Holy Cross cemetery is the old Southern Pacific single track line from San Bruno to San Francisco, by way of Valencia street; and Mission road now runs under the railroad track. On either side of the railroad track at this point Mission road is now at a very low grade. Colma Creek runs along near the road a short distance to the west, and during the rainy season the highway in this neighborhood is practically impassable on account of the overflow from Colma Creek, which covers the roadway with large quantities of sand and debris and fills the roadbed, where it crosses under the track, to such an extent that ordinary pedestrian and vehicular traffic becomes extremely difficult and practically impossible. This road traffic consists mainly of funeral processions to Holy Cross cemetery and of delivery wagons to and from the vicinity of South San Francisco.

The county of San Mateo proposes to raise Mission road for a distance of about two thousand (2,000) feet at this place to a grade of about six (6) feet, which, together with a grade crossing over the Southern Pacific track, will do away with the difficulties occasioned here by the overflow from Colma Creek. The applicant maintains that public convenience and necessity require that the permission to establish this grade crossing should be granted by this Commission.

The Southern Pacific Company is opposed to the granting of this application, while the Roman Catholic Archbishop of San Francisco, a corporation sole, joins the applicant in its petition that the application be granted. The United Railroads of San Francisco and the South San Francisco Railway and Power Company are interested in the application by reason of the fact that one of their tracks now uses Mission road and the present undergrade crossing under the terms of a franchise granted by the board of supervisors of San Mateo County. A change to a grade crossing for the county road at this point would of necessity result in a grade crossing also as between the street railway company's and the Southern Pacific Company's tracks, unless the street railway track were abandoned or changed to another location.

Hearings were held in the matter on January 7, 1915, in San Mateo, and on January 25, 1915, and April 9, 1915, in San Francisco, at which all interested parties testified, and the application is now ready for a decision.

The Southern Pacific Company based its objections to the proposed change on five principal reasons, as follows:

1. That the proposed crossing at grade will be on a long diagonal, and on a road that will be heavily traveled by automobiles and other vehicles, which would render it an extremely dangerous crossing.

2. The existing road now passes under the track and can be operated with safety, and it would be a retrograde step to change the crossing from an undergrade to a grade crossing.

3. Public convenience and public necessity are now served by the existing crossing.

4. The reason assigned for the change of the crossing, *i.e.*, faulty drainage, is not sufficient to justify an additional hazard by changing to a grade crossing.

5. The expenditure of some of the money required to establish a new grade in properly draining the present highway would accomplish the necessary result.

The Commission's engineering department in its report to the Commission covered all of these questions. I fully agree with the Southern Pacific Company that under ordinary conditions a change from a safe separation of grades to a dangerous grade crossing is a step in the wrong direction. In this case, however, from the reports before me and from the testimony introduced at the hearing, it appears that the topography of the neighborhood of this crossing is such that it is impossible, without the expenditure of an altogether unreasonable amount of money, to properly drain this subway and the road on both sides of it. The undergrade crossing is situated at the lowest point at the intersection of the grades of the county road as it approaches from either direction, and is about two feet lower than the surrounding territory. After each heavy rain the crossing is almost impassable, as it becomes the center to receive the water and silt drained from the surrounding territory and the overflow from Colma Creek. This creek is more of a ditch than a natural waterway at this point, being about ten or twelve feet wide and from two to four feet deep, and lying on higher ground than the county road. It can not accommodate the flood waters from its considerable tributary drainage area. This area consists largely of sand hills, all under intensive cultivation. The great quantity of silt and sand which after each heavy rain comes down with the drainage, fills up the ditch, causes it to overflow on to the lower land, and the present county road then becomes a secondary creek channel. The present undercrossing during each winter is repeatedly filled up with water and silt to a depth of from two to three feet.

The installation of a large pump at this point or the construction of a gravity drain to relieve these conditions, has been considered. The conclusion is reached, however, that either of these methods is imprac-

licable, as the flow of water and silt is too great to efficiently and economically remove it and keep the road in passable condition. The raising of the grade, as proposed by the applicant, on the other hand, will effectively do away with all the difficulties caused by high water. It was also evident from the testimony at the hearings that the applicant's plan would be of benefit not only to the public using the highway, but to the adjacent property owners as well.

It is my opinion, therefore, that the objectionable feature of changing the undergrade crossing into a grade crossing is fully outweighed by the benefits derived from the raising of the grade of the county road and by the fact that the present undergrade crossing certainly does not serve public convenience and necessity. I am the more inclined to grant this application for the reason that traffic over the Southern Pacific branch line at this point is very light and consists chiefly of occasional funeral trains. Only four (4) regular trains operate over this track each way daily. I believe a grade crossing can be made reasonably safe by the installation of a crossing bell or an automatic flagman, and it is my opinion that such a safety device should be installed and that the applicant should assume the cost of the device and its installation, and that the Southern Pacific Company should thereafter maintain it.

The county's application makes no mention of the track of the United Railroads of San Francisco and of the South San Francisco Railway and Power Company, which now uses the undercrossing. It appears that negotiations have been under way for a considerable time between the United Railroads of San Francisco and the Southern Pacific Company for a change in the location of the street railway company's track and a crossing at some more convenient point across the Southern Pacific Company's right of way. The Commission endeavored, informally, after the present application was filed, to expedite a conclusion in this matter, but without result. At the last hearing, on April 9th, therefore, this particular phase of the problem was further gone into. It appears that the Southern Pacific Company is unwilling to consider a change in location of the railway crossing. It is clear to me that the street railway, under its franchise, has a right to lay and maintain its track on Mission road, and the abandonment of this track is out of the question. I recommend, therefore, that the Commission permit the construction of the street railway company's track at grade across the track of the Southern Pacific Company, on Mission road, after that highway has been reconstructed as planned by the applicant. The question of additional hazard and danger by reason of the street railway operation does not appear to be of importance. No regular service is maintained over the street railway company's track on this line, the track being used only twice a day by the cars of the

South San Francisco Railway and Power Company or of the United Railroads of San Francisco, to run to and from a car barn located on the east side of the Southern Pacific Company's right of way.

I recommend the following form of order:

ORDER.

Board of supervisors of San Mateo County, California, having applied to the Commission for permission to establish a grade crossing of Mission road over the track of the Southern Pacific Company, and to abandon the undergrade crossing at Holy Cross cemetery, San Mateo County, California, as shown by the map and profile on file with the Commission; and hearings having been held in the above application, and it appearing to the Commission that the application should be granted subject to the conditions hereinafter specified,

It is hereby ordered that permission be hereby granted to applicant for the construction of the grade crossing as above described, under the following conditions, viz:

(1) The entire expense of constructing the crossing, together with the cost of its maintenance thereafter in good and first class condition for the safe and convenient use of the public, shall be borne by the applicant, except in so far as under the conditions of the franchise granted by applicant to the United Railroads of San Francisco and to the South San Francisco Railway and Power Company these companies are required to assume part of this expense, and except as provided in this order hereafter under (2).

(2) The expense of maintaining the crossing in good and first class condition for the safe and convenient use of the public inside the track of Southern Pacific Company and two (2) feet on the outside thereof, shall be borne by Southern Pacific Company.

(3) The grade crossing shall be constructed of a width and type to conform to those portions of the highway now graded with grades of approach not exceeding three (3) per cent, and shall in every way be made safe and convenient for the passage thereover of vehicles and other road traffic.

(4) Prior to the opening of the crossing the applicant shall install, at its own expense, an automatic flagman or an electric crossing bell, of a type approved by the Commission; and Southern Pacific Company shall thereafter assume the cost of maintaining this crossing protection.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of this crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

It is further ordered that permission be hereby granted the United Railroads of San Francisco and the South San Francisco Railway and

Power Company to construct its track at grade across the track of the Southern Pacific Company on Mission road, at Holy Cross cemetery, San Mateo County, California, as shown by the map and profile on file with the Commission, subject to the following conditions, viz:

(1) The entire expense of constructing and installing the crossing-frogs, together with the cost of their maintenance thereafter in good and first class condition, shall be borne by the United Railroads of San Francisco and the South San Francisco Railway and Power Company.

(2) After the installation of the frogs for said crossing all motors, trains and cars of the United Railroads of San Francisco and the South San Francisco Railway and Power Company shall come to a full stop before passing over the crossing and within fifty (50) feet thereof, and shall not pass over the crossing until the conductor or other employee of the street railway company has first gone on to the crossing and ascertained that no engines, trains or cars of the Southern Pacific Company are approaching from either direction.

(3) Said crossing shall be constructed in accordance with the terms of this Commission's General Order No. 26, relating to clearances for street railways and wire lines.

(4) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of this crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of April, 1915.

DECISION No. 2296.

IN THE MATTER OF THE APPLICATION OF CLAREMONT DOMESTIC
WATER COMPANY FOR AUTHORITY TO ISSUE NOTES TO THE
AMOUNT OF THIRTY THOUSAND DOLLARS.

Application No. 1468.

Decided April 16, 1915.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission, in its order heretofore rendered on February 24, 1915, in the above entitled application, having authorized Claremont Domestic Water Company to issue its ten-year note, or notes, to Pomona

College in a sum not exceeding twenty thousand (\$20,000.00) dollars, upon the condition that the applicant should present to this Commission, for its approval, copy of the proposed mortgage or deed of trust to be executed as security for said notes, and applicant now having presented to the Commission the proposed form of mortgage and deed of trust (marked Exhibit "A"), and it appearing to the Commission that said mortgage and deed of trust is in proper form and should be approved,

It is hereby ordered that the mortgage and deed of trust submitted by Claremont Domestic Water Company in connection with the application herein and marked Exhibit "A" be, and it is hereby, approved.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of April, 1915.

DECISION No. 2297.

IN THE MATTER OF THE APPLICATION OF THE CITY ELECTRIC COMPANY TO MODIFY AND AMEND ITS FIRST MORTGAGE AND DEED OF TRUST.

Application No. 1579.

Decided April 19, 1915.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

FIRST SUPPLEMENTAL ORDER.

WHEREAS, This Commission in Decision No. 2286, dated April 9, 1915, approved certain modifications and amendments, shown in Exhibit "A" attached to this application, to the first mortgage and deed of trust dated July 1, 1907, of City Electric Company; and

WHEREAS, It now appears that the supplemental indenture marked Exhibit "B," dated April 15, 1915, as executed by City Electric Company to Anglo-California Trust Company differs in form and to a minor degree in substance from Exhibit "A" heretofore approved by this Commission in that it includes—

(1) The guaranty of the Great Western Power Company reading:

"For value received the Great Western Power Company hereby guarantees to the holder of the within bond the prompt and punctual payment, according to the terms thereof, of the interest upon, and the principal of, the within bond.

GREAT WESTERN POWER COMPANY.

By -----, President.

By -----, Secretary."

(2) An agreement on the part of City Electric Company to stamp, whenever requested, at its expense, on its bonds now outstanding or heretofore to be issued the following:

(a) "Interest coupons are payable in New York funds at office of William P. Bonbright & Co., Inc., in New York, N. Y., or at place specified in coupons, at option of holder."

(b) "This bond is entitled to the benefits of the supplemental mortgage of the Electric Company to Anglo-California Trust Company, as successor trustee, dated April 15, 1915."

And,

WHEREAS, City Electric Company has asked permission to substitute the supplemental indenture marked Exhibit "B" for Exhibit "A," heretofore approved,

It is hereby ordered that City Electric Company be and it is hereby granted authority to execute to Anglo-California Trust Company a supplemental indenture, as set forth in Exhibit "B," attached to this application; and

It is further ordered that Exhibit "B" approved hereby shall be substituted for Exhibit "A" heretofore approved by this Commission in Decision No. 2286, dated April 9, 1915.

The foregoing first supplemental order is hereby approved and ordered filed as the first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of April, 1915.

DECISION No. 2298.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND SOUTHEASTERN RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ABANDONMENT OF ITS AGENCY AT CORONADO, CALIFORNIA

Application No. 1555.

Decided April 19, 1915.

San Diego and Southeastern Railway Company applies for permission to discontinue its agency at Coronado, and after an investigation it appearing that public convenience does not require the maintenance of an agent at this point, application granted.

Read G. Dilworth, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application for an order authorizing the abandonment of the agency of San Diego and Southeastern Railway Company at Coronado.

The information required in cases of this character by General Order No. 36 has been filed. A public hearing on this application was held in San Diego on April 13, 1915. Although notice of the hearing was published and a copy of the notice was posted at the station in Coronado, no one appeared in opposition to the application. Leading shippers to whom notice of the hearing was mailed have written to the Commission that they have no objection to the abandonment of the agency.

Prior to 1900 the Coronado Belt Line, as the railway from San Diego around the head of San Diego Bay to Coronado was then known, did a considerable passenger and freight business. For a number of years, however, no passengers have been carried over this route, the traveling public preferring the more direct route via the Coronado ferry between San Diego and Coronado. Formerly large quantities of rock for the government jetty at Coronado, as well as gravel, cement, sand, crushed rock and road oil were conveyed over the railway now owned by applicant for use in Coronado, largely for public work. More recently, however, this business has decreased very materially and at the present time the public work in which the gravel, cement, sand, crushed rock and road oil were used has almost been completed.

The tonnage of the principal commodities forwarded and received and the revenue derived therefrom for the twelve months prior to November 30, 1914, were as follows:

| <i>Received.</i> | | |
|--------------------|---------|-------------|
| | Tons | Revenue |
| Gravel ----- | 112,948 | \$38,771 00 |
| Cement ----- | 3,314 | 994 07 |
| Sand ----- | 4,762 | 2,106 27 |
| Crushed rock ----- | 2,688 | 1,628 00 |
| Rip-rap ----- | 1,014 | 608 49 |
| Road oil ----- | 1,119 | 335 72 |

Forwarded.
None.

The tonnage of freight received and forwarded in carload lots and less than carload lots during the period December 1, 1914, to February 28, 1915, and the revenue derived therefrom were as follows:

| <i>Received.</i> | | |
|--------------------------|-------|------------|
| | Tons | Revenue |
| Carloads ----- | 4,967 | \$2,391 28 |
| Less than carloads ----- | 8 | 21 63 |
| Total ----- | | \$2,412 91 |

Forwarded.

| | Tons | Revenue |
|-------------------------|------|---------|
| Carloads | 30 | \$33 33 |
| Less than carloads..... | None | |

The average monthly expense of maintaining an agency station at Coronado has been \$78.50, of which amount \$75.00 represents the agent's salary and \$3.50 telephone rental.

I find on the evidence in this proceeding that the public convenience and necessity no longer require the maintenance of an agency by applicant in Coronado and recommend that the application be granted.

I submit the following form of order:

ORDER.

San Diego and Southeastern Railway Company, having filed its petition applying for an order authorizing the discontinuance of the company's agency at Coronado, and a public hearing having been held, and the Railroad Commission finding that public convenience and necessity no longer require the maintenance of said agency,

It is hereby ordered that San Diego and Southeastern Railway Company be and the same is hereby authorized to discontinue its agency at Coronado.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of April, 1915.

DECISION No. 2299.

IN THE MATTER OF THE APPLICATION OF THE SAN DIEGO AND SOUTHEASTERN RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ABANDONMENT OF ITS AGENCY AT OTAY, CALIFORNIA.

Application No. 1571.

Decided April 19, 1915.

San Diego and Southeastern Railway Company applies for permission to discontinue its agency at Otay, and it appearing that business through this station does not warrant the expense of maintaining an agent, application granted; *provided*, that after a period of six months any patron believing himself injured thereby may again draw the matter to the attention of the Commission.

Read G. Dilworth, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This is an application for an order authorizing the abandonment of the agency of San Diego and Southeastern Railway Company at Otay, San Diego County.

A public hearing was held in San Diego on April 13, 1915. Notice of the hearing was published and a copy of the notice was posted at the station in Otay. No one appeared in opposition to the application.

Applicant urges that the amount of business done by it at Otay station during the last year does not warrant the continuance of an agency at that point. In support of this claim, applicant presented statements showing its passenger and freight business at Otay in the year 1914.

The number of passenger tickets sold at this agency during the last twelve months, together with the revenue received therefrom, are as follows:

| Single trip card | Round trip | 25-ride | 46-ride | Total number tickets sold | Revenue |
|------------------|------------|---------|---------|---------------------------|----------|
| 47 | 87 | 115 | 95 | 344 | \$730 55 |

Freight movements during the twelve months ending January 31, 1915, were as follows:

Forwarded.

| | Tons | Revenue |
|-------------------------|------|----------|
| Carloads | 195 | \$136 14 |
| Less than carloads..... | 38 | 73 72 |
| Totals | 233 | \$209 86 |

Received.

| | | |
|-------------------------|-----|------------|
| Carloads | 400 | \$291 65 |
| Less than carloads..... | 370 | 735 87 |
| Totals | 770 | \$1,030 52 |

The tonnage of the principal commodities forwarded and received and the revenue therefrom for the twelve months ending January 31, 1915, are as follows:

Forwarded.

| | Tons | Revenue |
|-------------------------------|------------|-----------------|
| Carloads— | | |
| Household goods | 10 | \$7 00 |
| Hay | 169 | 115 06 |
| Machinery | 16 | 14 08 |
| Totals | 195 | \$136 14 |
| Less than carloads— | | |
| Merchandise | 30 | \$57 74 |
| Vegetables | 4 | 7 39 |
| Household goods | 4 | 8 59 |
| Totals | 38 | \$73 72 |
| Totals forwarded | 233 | \$209 86 |

Received.

| | | |
|------------------------------|------------|-------------------|
| Carloads— | | |
| Oil | 25 | \$21 34 |
| Grain | 334 | 234 05 |
| Lumber | 16 | 20 48 |
| Pipe | 25 | 18 78 |
| Totals | 400 | \$294 65 |
| Less than carloads— | | |
| Merchandise | 306 | \$642 20 |
| Oil | 19 | 35 07 |
| Lumber | 45 | 58 60 |
| Totals | 370 | \$735 87 |
| Totals received | 770 | \$1,030 52 |

Applicant claims that its carload shipments to and from Otay can be handled without difficulty, by telephone, from the agency station at Chula Vista, 3.2 miles away, and that the less than carload shipments can be handled by the train crew at Otay. Applicant further claims that its freight business at Otay has fallen off materially because of the competition of motor trucks, which haul in general for the same rates as the railroad, but make delivery or take freight directly to the consignee or from the consignor.

The average monthly expense in maintaining the agency at Otay during the year 1914 was \$67.67, of which amount \$60.00 represents the agent's salary and \$3.00 telephone rentals. This expense is almost

50 per cent of the total revenue derived by applicant at this station from both freight and passengers.

The evidence seems to show that it would be unreasonable to compel the applicant to retain its agency at Otay under the conditions now prevailing, particularly in view of the fact that the carload business can be handled from Chula Vista and that passengers can buy their tickets in San Diego or on the train without additional expense. The waiting room at Otay should be kept open for the accommodation of applicant's patrons. I am also of the opinion that any patron or shipper who may believe that he is injured by the abandonment of this agency should be permitted to draw the matter to the Commission's attention after a six months trial.

I recommend that the application be granted on the conditions specified in the order herein, and submit the following form of order:

ORDER.

San Diego and Southeastern Railway, having filed its petition applying for an order authorizing the discontinuance of the company's agency at Otay, San Diego county, and a public hearing having been held, and the Railroad Commission finding that the said petition should be granted, subject to the conditions hereinafter specified,

It is hereby ordered that San Diego and Southeastern Railway Company be and the same is hereby authorized to discontinue its agency at Otay, subject to the following conditions:

1. The waiting room at Otay shall be kept open and cleaned for the accommodation of applicant's patrons.
2. After a six months trial, any patron or shipper of applicant who may be dissatisfied with the abandonment of the agency may draw the matter to the Railroad Commission's attention and ask for the revocation or amendment of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of April, 1915.

DECISION No. 2300.

IN THE MATTER OF THE APPLICATION OF THE SANTA BARBARA GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING IT TO ISSUE TO THE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS ITS BONDS BEARING INTEREST AT THE RATE OF SIX PER CENT PER ANNUM.

Application No. 1525.

Decided April 19, 1915.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

FIRST SUPPLEMENTAL ORDER.

WHEREAS, This Commission, in Decision No. 2182, dated February 27, 1915, authorized Santa Barbara Gas and Electric Company to issue and sell \$100,000.00 face value, first mortgage 6 per cent thirty year gold bonds; and

WHEREAS, Said decision provided that bonds to the face value of \$62,000.00 should be issued and sold only after applicant had filed with this Commission a detailed statement showing the cost of additions and betterments and had received from this Commission a supplemental order specifically authorizing the use of the proceeds to be obtained from the sale of said bonds; and

WHEREAS, Santa Barbara Gas and Electric Company has now filed a supplemental application for an order authorizing applicant to issue and sell \$10,000.00 face value of its first mortgage 6 per cent thirty year gold bonds to defray the cost of additions and betterments as shown in Exhibit "A" attached to said supplemental application, and it appearing that the purposes for which applicant desires to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Santa Barbara Gas and Electric Company be given, and it is hereby given, authority to issue \$10,000.00 face value of its first mortgage 6 per cent thirty year gold bonds under its trust indenture to Los Angeles Trust and Savings Bank, dated July 1, 1911.

It is hereby further ordered that the provisions of this Commission's order in Decision No. 2182, dated February 27, 1915, shall remain in full force and effect, in so far as not in conflict with the order herein.

The foregoing first supplemental order is hereby approved and ordered filed as the first supplemental order in the matter of Application No. 1525 of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of April, 1915.

DECISION No. 2301.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO FILE AND ESTABLISH AS ITS RATES IN TERRITORY OVER WHICH THE COMMISSION NOW HAS JURISDICTION TO FIX RATES, THE RATES AND CHARGES SET FORTH IN SCHEDULES NUMBERED 130, 131, 135, 136, COPIES OF WHICH ARE ATTACHED TO APPLICATION HEREIN AND MARKED EXHIBITS "A," "B," "C," "D," RESPECTIVELY.

Application No. 1389.

Decided April 19, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the above entitled matter having on April 9, 1915, made written request to this Commission that the above entitled application be dismissed,

It is hereby ordered that the above entitled application be, and the same is hereby, dismissed without prejudice.

Dated at San Francisco, California, this 19th day of April, 1915.

DECISION No. 2302.

IN THE MATTER OF THE APPLICATION OF ANNIE DELL SEGNO, A PUBLIC UTILITY, TO MORTGAGE ALL OF THE PLANT OF SAID UTILITY.

Application No. 1532.

Decided April 19, 1915.

Applicant, operating a small water utility, applies for permission to mortgage all of her property for the sum of \$6,000.00, such money to be used partly in the settlement of a judgment rendered against such property, the balance to reimburse herself for additions heretofore made, and it appearing that funds for the latter named purpose are not necessary at the present time, applicant permitted to mortgage its property for the sum of \$4,800.00 for the purposes of discharging several small mortgages at present existing, the payment of the judgment rendered against such property of certain bills incurred in connection therewith.

George W. Bush, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The Ocean Park Heights Water System supplies certain residents of a subdivision of that name, located in the suburbs of Los Angeles. The owner of the utility, Annie Dell Segno, has applied to this Commission

for authority to mortgage all of the plant of the said utility to the Bankers Bond and Mortgage Company in and for the sum of \$6,000.00, with interest payable semiannually at 8 per cent per annum, said note to mature three years from date thereof. It is represented that applicant has advanced about \$3,000.00 for the installation of better equipment in the distribution of water to her patrons and has a judgment against her for the drilling of an unsuccessful well, which applicant refused to pay for, amounting to about \$3,800.00.

A hearing was held in Los Angeles in this application on April 8, 1915, and at that time certain facts relating to the case were more clearly developed. It appears that Annie Dell Segno acquired this water system after it had been constructed to further the sale of certain lots in the subdivision called Ocean Park Heights, and that she was not a party to the exploitation of that subdivision. Certain lands adjoining (about one hundred acres in all) are held by the applicant, however, and were obtained simultaneously with the acquisition of the utility property. Applicant proceeded to augment her available supply and contracted for a well to be drilled. This well, after being drilled about 940 feet, was a failure, and applicant refused to pay for it, and took the matter into the courts where the contractor secured a judgment from the superior court for about \$3,800.00 and same has been entered against the property of applicant. At the time of the hearing, it was stated that applicant had advanced about \$1,200.00 of her own money as partial payment of the judgment and that final execution had been stayed pending the result of this action before the Commission. I do not consider that applicant should be allowed to reimburse her private funds at this time for the \$1,200.00 advanced, but if at some future time there arises urgent necessity for it, application may be made for permission to borrow that additional amount.

An investigation for rate-fixing purposes was had and a decision rendered in January, 1915, by which some additional revenue was provided the applicant, but not the full amount which the cost of the property would warrant if the customers numbered more than the seventy or so at present obtaining water from this system. The total cost, new, of the property involved in this application is about \$10,000.00, with a depreciated value at this time of between \$6,000.00 and \$7,000.00.

The hydraulic engineers of this Commission have made an investigation of the property operated by the utility and find that the reasonable cost thereof, allowing for depreciation, exceeds the \$6,000.00 which applicant asks as the principal of the proposed note and mortgage to be entered under authority of this Commission.

Applicant is unable to meet the interest on this note and other expenses from the returns of the utility business, but stated that she has

private means by which the interest, and eventually the principal, will be paid. Applicant also stated that she could afford to stand the loss in operating the utility until the time when she expects to subdivide the one-hundred-acre tract and then recoup the losses sustained in the utility business.

The situation at this date is as follows: If the note is not allowed to be issued, the utility property will be sold to satisfy the judgment of \$3,800.00 and applicant will lose the equity above the amount of the judgment. If the note is issued, it appears very unlikely that payment can be made out of the returns of the utility business, but three years will be given the applicant to arrange her other interests and possibly restore the unencumbered financial condition of this utility existing previous to the granting of this application.

It, therefore, seems equitable to allow the applicant an opportunity to recover from the heavy loss inflicted by a judgment of \$3,800.00 for a well proved an absolute loss. The expenditure was contracted for the benefit of the utility and the present financial stringency makes any other course inadvisable.

I accordingly submit the following form of order:

ORDER.

Annie Dell Segno having made application to this Commission to mortgage her utility property for the sum of \$6,000.00 and a hearing having been held, and it appearing that the best interests of the utility will be served by the authorization of this application, and being fully apprised in the premises,

It is hereby ordered as follows:

1. That Annie Dell Segno be authorized to mortgage her water utility plant, known as Ocean Park Heights Water System, to the Bankers Bond and Mortgage Company for the sum of \$4,800.00, with interest at 8 per cent per annum, payable semiannually, and said note and mortgage to mature three years from date thereof.

2. That the purpose for which this amount of \$4,800.00 is authorized is the liquidation of the following obligations outstanding, and which have not been paid by the utility:

| | |
|--|-------------------|
| 1. Mortgage on new plant site | \$700 00 |
| 2. Mortgage on reservoir site | 500 00 |
| 3. Judgment upon useless well | 2,600 00 |
| 4. Engineer's services, attorney's fees, payments due on equipment purchased and certain lien levied upon the utility for securing payment of bills for materials..... | 1,000 00 |
| Total | <u>\$4,800 00</u> |

3. That applicant shall furnish this Commission with a detailed statement showing wherein the sum of \$4,800.00 hereby authorized is finally paid to and receipted for by the various persons or parties holding the obligations above enumerated.

4. The effective date of the operation of this order shall be the 19th day of April, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of April, 1915.

DECISION No. 2303.

IN THE MATTER OF THE APPLICATION OF W. G. AND E. D. WADLEY
TO HAVE A SCHEDULE OF WATER RATES FIXED FOR THE
TERRITORY SUPPLIED BY APPLICANTS NEAR LOS ANGELES.

Application No. 1387.

Decided April 20, 1915.

Applicant, operating a water distributing system under schedules of rates which include a flat rate of \$1.00 per month, a meter rate of 10 cents per 100 cubic feet, minimum \$1.00, and a meter rate of \$1.25 for 700 cubic feet, contends that such rates are non-compensatory and applies for permission to increase same, and after investigation a flat rate of \$1.20 per month and a meter rate of \$1.20 for 800 cubic feet or less per month, excess at 10 cents per 100 cubic feet, established to become effective May 1, 1915.

W. G. Wadley, in propria persona.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application for permission to increase rates charged for water.

Applicant owns and operates a water producing and distributing system in a territory just outside the incorporated limits of the city of Los Angeles, called Manchester Heights. Up to a short time ago there were about 180 consumers and recently there have been added 60 consumers.

These latter consumers have been supplied by, and claim to own, what is called the Olivito Heights Water System. The source of water supply of this system has recently failed, and Wadley has been supplying water to these consumers through a connection made with his system at an agreed rate of \$1.25 minimum, the Olivito system being metered.

Applicant now has three sets of rates:

1. Flat rates under the Wadley system, \$1.00 per lot per month.
2. Meter rates under Wadley system, 10 cents per hundred cubic feet with minimum of \$1.00.
3. Meter rates under Olivito system, \$1.25 for 700 cubic feet or less per month, and 18 cents for each 100 cubic feet excess.

The engineers of this Commission find a depreciated reproduction, or present, value of the Manchester plant to be \$8,606.00.

The annual expenses chargeable directly to the Manchester consumers are as follows:

| | |
|--|-------------------|
| Interest on \$8,606 at 7 per cent----- | \$602 00 |
| Salary of Wadley----- | 900 00 |
| Power----- | 675 00 |
| Repairs----- | 150 00 |
| Depreciation----- | 452 00 |
| Taxes----- | 25 00 |
| Total----- | <u>\$2,804 00</u> |

The additional annual expense incurred through the acquisition of the Olivito consumers is:

| | |
|-----------------------|-----------------|
| Salary of Wadley----- | \$300 00 |
| Power----- | 200 00 |
| Repairs----- | 100 00 |
| Meter upkeep----- | 30 00 |
| Total----- | <u>\$630 00</u> |

The total charges, therefore, of \$3,434.00, divided by the 240 total consumers, gives an average per service of \$1.20 per month.

There are only eleven meters attached to the Manchester system and the evidence shows that there has been considerable abuse by indiscriminate use of water during all hours of the day. The only real remedy, of course, is the metering of the services, and I strongly recommend that meters be put in by Wadley.

Data gathered from all over southern California shows that an average family can be amply supplied with water and use not to exceed 800 cubic feet per month, and I believe this to be a fair amount to be fixed for which the minimum of \$1.20 per month will be paid.

I think that \$1.20 per month should also be the flat rate. If Mr. Wadley finds that water is being wasted under the flat rate he can, of course, meter the wasteful services, and thus either obtain compensation for the use of the excess water or check the waste.

Excess water, I believe, should be paid for at the rate of 10 cents per 100 cubic feet per month.

I submit the following form of order:

ORDER.

Application having been made by W. G. and E. D. Wadley for permission to increase the rates charged by them to consumers for water, and a public hearing having been had and the matter having been submitted,

The Railroad Commission of the State of California hereby finds as a fact that the present rates being charged by W. G. and E. D. Wadley

for water delivered to consumers in what is known as Manchester Heights Tract and Olivito Heights Tract are unjust and unreasonable, and that the rates set out in the following order are just and reasonable rates to be charged by said persons for water delivered to said consumers.

Basing its order upon the foregoing finding of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the State of California that W. G. Wadley and E. D. Wadley are hereby authorized to charge consumers in what is known as Manchester Heights Tract and Olivito Heights Tract, the following rates for water:

Meter rates \$1.20 for 800 cubic feet or less per month; 10 cents per 100 cubic feet in excess of 800 cubic feet.

Flat rate \$1.20 per month per service.

Meters to be installed at expense of the Wadleys.

W. G. and E. D. Wadley are hereby authorized to put the rates herein found to be reasonable into effect on the 1st day of May, 1915, provided that they shall before said date file with this Commission a schedule of rates as herein above set out.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of April, 1915.

DECISION No. 2304.

IN THE MATTER OF THE APPLICATION OF THE FOSTER WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN STORAGE RATES AND OTHER INCIDENTAL CHARGES.

Application No. 1415.

Decided April 20, 1915.

Applicant, operating a warehouse for the storage of grain, under a schedule of rates which includes a storage charge of 60 cents per ton and a loading charge of 15 cents contends that owing to changed conditions their warehouse can not be operated at a profit under such rates and accordingly petitions for permission to increase same. Rate of \$1.00 per ton per season established, this rate to include storage, weighing, re-sacking and all such incidental expenses.

E. H. Foster, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by the Foster Warehouse Company, through its manager, E. H. Foster, for authority to increase its charges for the storage of grain and incidental service.

42—17493.

Rates filed with the Railroad Commission on April 30, 1912, are as follows:

Grain.

| | |
|---------------|-----------------------------|
| Storage ----- | 60 cents per ton per season |
| Loading ----- | 15 cents per ton |

Under these rates all re-sacking was done at the expense of the shipper, who likewise paid for weighing when specially ordered. The cost of re-sacking is of necessity a variable amount, but the evidence at this hearing tended to show that grain buyers when making purchases have usually allowed an amount at least as great as 25 cents per ton to cover this more or less uncertain charge.

Rates proposed by applicant are as follows:

Grain.

| | |
|-----------------|-----------------------------|
| Storage ----- | 75 cents per ton per season |
| Resacking ----- | 25 cents per ton |

These rates are to cover usual service, including loading and all necessary re-sacking, the 25 cents per ton to be collected for all grain stored, regardless of whether the same was actually re-sacked. Inability to determine in advance the amount of re-sacking or overhauling necessary to place any given lot of grain in proper condition for shipment, in order that such charges might be shown on warehouse receipt, appears to be one of the chief sources for complaint. In exceptional cases re-sacking charges alone have run as high as \$1.80 per ton. The flat rate fixed in the order herein covers all customary incidental service and this should eliminate, or minimize, controversies between buyers and warehousemen. On the face of it, a flat rate of \$1.00 per ton will appear as a direct increase of 25 cents per ton in the rates heretofore paid by the farmer, or producer, for the reason that under the old rule re-sacking bills always went to the shipper, or final holder of warehouse receipt. However, the producer when selling his grain has, in the past, not only been compelled indirectly to make an ample allowance for this charge, but the evidence at this hearing showed that re-sacking charges at some points have forced abnormal deductions to cover this item. The growers will, therefore, be in at least no worse position with respect to this change than before.

For justification of the proposed rates applicant relies entirely upon the claim of increased operating cost, and change of character of crop offered for storage within the last decade. The warehouse itself has twice collapsed since 1910, which caused unusual expense and resulted in confusion and misunderstandings due to the mixing of the grain of different owners. It is not possible, however, from the evidence and data furnished to arrive at any satisfactory conclusion as to how these extraordinary expenditures should be reflected in the rates. It is said that at least \$5,000.00 additional will have to be expended in order to

make the warehouse again fairly tenantable. As is true in many other places in Sacramento Valley, crops have in recent years changed very largely from wheat to barley, the latter being much less valuable from a warehouseman's standpoint than the former. On the other hand, the evidence shows that in former years grain has been stored in the Foster warehouse at 35 cents per ton to October 1st, or 60 cents per ton per season. This, however, was at a time of keen competition and does not represent a fair basis for the establishment of rates at the present time.

A financial statement submitted by applicant is as follows:

| | | |
|------------------------|----------|----------------|
| Total income ----- | | \$2,487 81 |
| Labor ----- | \$515 46 | |
| Insurance ----- | 60 00 | |
| Taxes ----- | 120 00 | |
| Manager's salary ----- | 1,200 00 | 1,895 46 |
| Balance ----- | | <hr/> \$592 35 |

These figures can not be fully relied upon, for the reason that the statement covers a period ending August 15, 1914, the very heart of the storage season, and because of the further fact that an unusually large crop was stored during 1914. No figures were presented to show the result of operations for the years preceding.

Although the evidence at the hearing in this application is somewhat meager and unsatisfactory, I think there were sufficient facts developed to show that a moderate increase in rates should be allowed.

I recommend that the application be granted with the modifications indicated in the following order:

ORDER.

Application having been made to this Commission by Foster Warehouse Company for an order authorizing increases in rates for the storage and incidental handling of grain, in its warehouse located at Tremont, California, and a hearing having been held upon said application, and the Commission being fully advised in the premises,

It is hereby found as a fact that the rate of \$1.00 per ton per season for the storage and incidental handling of grain by the Foster Warehouse Company is a just and reasonable rate to be charged for such service.

Basing its order upon the foregoing finding of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the State of California that Foster Warehouse Company is hereby authorized to charge for the storage and incidental handling of grain, \$1.00 per ton per season.

It is hereby further ordered that the service to be rendered for the above rate shall be the service which is by custom established in connection with warehouse storage in the same locality, and shall include weighing, receiving, piling, carrying in storage, re-sacking and placing in condition for shipment and loading on cars.

Foster Warehouse Company is hereby authorized to place the foregoing rate in effect as of June 1, 1915, provided that prior to said time there shall be filed with the Railroad Commission a schedule embodying the above rate.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of April, 1915.

DECISION No. 2305.

IN THE MATTER OF THE APPLICATION OF THE PENINSULAR RAILWAY COMPANY FOR AN ORDER TO CANCEL ALL THEATER ROUND-TRIP FARES APPLYING TO PALO ALTO, SAN JOSE, LOS GATOS; ALSO TO INCREASE FROM THIRTY-FIVE TO FIFTY CENTS, SUNDAY AND LEGAL HOLIDAY EXCURSION RATES, APPLYING FROM PALO ALTO, MAYFIELD AND LOS ALTOS TO CONGRESS SPRINGS.

Application No. 970.

PALO ALTO CHAMBER OF COMMERCE

vs.

PENINSULAR RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY.

Case No. 593.

CITY OF PALO ALTO AND TOWN OF MAYFIELD,

Intervenor and Cross-Complainants.

CITY OF LOS GATOS,

Intervenor.

Decided April 20, 1915.

Applicant applies for permission to cancel what is known as theater round-trip rates in effect after 6 o'clock p.m. from various points to San Jose, Los Gatos and Palo Alto, and also for permission to increase certain Sunday and holiday excursion rates from Palo Alto, Mayfield and Los Altos to Congress Springs, such application evoking a number of cross-complaints from cities affected, protesting the granting of such application and a complaint from the Palo Alto chamber of commerce brings into question all passenger rates applying to or from Palo Alto.

Complainant contends that defendant is a subsidiary company of Southern Pacific Company, and as such is not entitled to a passenger rate per mile equal to the rates on main line railways, which contention the Commission is not inclined to consider, as it has been shown that subsidiary or feeder lines are, if anything, entitled to a greater rate per mile than the main line companies.

Held, After review of evidence tendered applicant permitted to discontinue its theater round-trip rates though application to increase rates to Congress Springs denied, and it appearing that discrimination exists in the schedules of passenger rates of Peninsular Railway in favor of San Jose as against Palo Alto, defendant directed to file with the Commission within forty days, a revised schedule placing Palo Alto rates upon the same basis as those of San Jose.

With reference to complainant's petition that defendant be compelled to have its conductors sell excursion tickets: That when trains are crowded as is usually the case under excursion rates, a conductor's time should not be taken up in the selling of tickets to the detriment of operating his train, though recommendation made that, whenever possible, conductors be furnished with excursion tickets to be sold on trains.

S. W. Charles, for Palo Alto Chamber of Commerce.

Wm. F. James, for Peninsular Railway Company.

C. W. Durbrow, for Southern Pacific Company.

N. E. Malcolm, for city of Palo Alto and town of Mayfield.

REPORT OF THE COMMISSION.

EDGERTON, Commissioner.

These proceedings grew out of an application filed by the Peninsular Railway Company seeking authority of the Commission to cancel all theater round-trip tickets applying from points on its line to Palo Alto, San Jose and Los Gatos, and to increase the Sunday and holiday round-trip excursion rates from thirty-five cents to fifty cents, applying from Palo Alto, Mayfield and Los Altos to Congress Springs and return. The city of Palo Alto and the town of Mayfield intervened and protested against the granting of the application and filed a cross-complaint attacking as unreasonable certain practices of the defendant Peninsular Railway, as well as practically all passenger rates. The chamber of commerce of Palo Alto filed a complaint attacking as unjust, unreasonable and discriminatory all passenger rates applying to and from Palo Alto. At the hearing the application and various complaints and cross-complaints were heard at the same time.

The applicant maintains so-called theater round-trip rates from various points on its line to San Jose, Los Gatos and Palo Alto, and the testimony is that these rates were established for the purpose of encouraging travel to the larger cities to attend theaters in the evening hours. These rates are considerably lower than the regular rates and tickets are sold only after 6 p.m. Applicant contends that these lower rates have not stimulated enough traffic to justify their con-

tinuance and that they are unremunerative. The following are a few examples of these theater rates:

| From— | To— | Distance in miles, round trip | Rate in cents | Rate in cents per mile |
|-----------------|-----------------|-------------------------------|---------------|------------------------|
| Los Altos ----- | Palo Alto ----- | 10.8 | \$0.20 | 1.85 |
| Cupertino ----- | Palo Alto ----- | 23.8 | .50 | 2.1 |
| Palo Alto ----- | San Jose ----- | 41.8 | .50 | 1.2 |
| Saratoga ----- | San Jose ----- | 22.6 | .30 | 1.33 |
| Meridian ----- | Los Gatos ----- | 19.8 | .35 | 1.77 |
| Campbell ----- | Los Gatos ----- | 11.4 | .25 | 2.2 |

The applicant submits statement Exhibit No. 13, which indicates that the car mile earnings on such of its trains as handle theater tickets after 6 p.m. are 21.32 cents and further shows that the average operating expense for the month of March, 1914, was 22.24 cents and for April, 22.14 cents, in each instance slightly in excess of the actual receipts. It is, of course, idle to take the passenger business of a railroad and attempt to segregate it as between the earnings in daylight and at night, for each passenger traveling, whether in the daytime or night, should pay a reasonable rate which should contribute reasonably to the support of the property.

In consulting the annual report of the Peninsular Railway we note that the operating revenues per car mile for the fiscal year ending June 30, 1914, amounted to 23.568 cents and the operating expenses 21.745 cents, and it is with these figures for the entire operations, both in daytime and at night, that we are primarily interested.

It is alleged in the cross-complaint of the city of Palo Alto and the town of Mayfield and the complaint of the chamber of commerce of Palo Alto that the Peninsular Railway is owned, controlled and operated by and in the interest of the Southern Pacific Company and that the line should not be regarded as an independent property, but as a feeder of the holding company.

When a branch line is constructed by a large system, the road building the branch does not ordinarily expect this branch to pay operating expenses and a reasonable return on the investment. These branch lines are usually constructed for the purpose of developing traffic, and while it is desirable from a railroad point of view that a branch be as near self-supporting as possible, it is the traffic contributed to the main line, and not the purely local traffic to and from branch line points, that induces the construction of the branch, and this is, no doubt, one of the reasons counsel for complainants and intervenors sought to establish the fact that the Peninsular Railway is an independent property in name, but in reality is operated in the interest of the Southern Pacific Company and is nothing more than a branch of that system.

That the Southern Pacific owns all of the outstanding capital stock of defendant, is admitted. However, it would be a most unusual situation to find the rates on a branch line constructed on a lower basis than on the main line. In fact, the various railroads have constantly urged before this Commission the propriety of a higher scale of rates on the branch lines than on the main line and the Commission, recognizing the justice of such a contention, has allowed a somewhat higher scale of rates on the branch lines in many instances. Therefore, if we are to treat this property as a branch of the Southern Pacific Company system and not as an independent line, the rates might be higher than they are today.

It is not clear how cross-complainant city of Palo Alto arrives at the conclusion that a just and reasonable rate would be $1\frac{1}{2}$ cents per mile for passengers carried on the Peninsular Railway, particularly if we are to consider this line as a branch of the Southern Pacific Company where the main line rates of the latter company are on a higher basis except in the instance of commutation rates. The city of Palo Alto, in paragraph 7 of its cross-complaint, requests the Commission to determine the reasonableness of the passenger rates of the Southern Pacific Company between Palo Alto and San Francisco and to consider the Peninsular Railway rates in connection with these rates.

We have already had before us in the case of the *San Mateo County Development Association vs. Southern Pacific Company*, and the *Palo Alto Chamber of Commerce vs. Southern Pacific Company*, Cases Nos. 574 and 595, the question of reasonableness of passenger rates on the line of the Southern Pacific Company between San Francisco and San Jose, and it will, therefore, be unnecessary to consider these rates in these proceedings.

Certain phases of the contentions of the city of Palo Alto, town of Mayfield and the chamber of commerce of Palo Alto that the Peninsular Railway is operated in interest of the Southern Pacific Company and should not be considered as an independent property depending wholly on local traffic for its support, strike me as having considerable merit. I refer particularly to the fact that various trains of the Peninsular electric road from Palo Alto to San Jose leave Palo Alto for San Jose a few minutes after the arrival of a Southern Pacific train from San Francisco also destined to San Jose. It is apparent that the Peninsular road with its longer mileage to San Jose and slower time can not expect to handle much business between Palo Alto and San Jose if its train schedules are arranged in such a manner as to induce no travel over its line.

The following schedule shows the time of the trains leaving Palo Alto for San Jose on both the Southern Pacific and Peninsular lines, also the arriving time at San Jose:

SOUTHERN PACIFIC COMPANY SCHEDULE.

| Miles | | a.m. | a.m. | a.m. | a.m. | p.m. | p.m. | p.m. | p.m. |
|-------|---------------|-------|-------|-------|-------|-------|------|-------|-------|
| 0 | Lv. Palo Alto | 5.45 | 7.31 | *8.07 | 9.54 | 12.50 | 2.27 | 3.58 | 5.28 |
| | | p.m. | p.m. | p.m. | p.m. | p.m. | p.m. | p.m. | a.m. |
| | | *6.06 | *6.13 | 6.47 | †7.15 | 7.32 | 9.16 | 10.31 | 12.47 |
| 16.8 | Ar. San Jose | a.m. | a.m. | a.m. | a.m. | p.m. | p.m. | p.m. | p.m. |
| | | 6.35 | 8.05 | 8.43 | 10.30 | 1.30 | 3.03 | 4.30 | 6.05 |
| | | p.m. | p.m. | p.m. | p.m. | p.m. | p.m. | p.m. | a.m. |
| | | 6.38 | 6.45 | 7.20 | 7.50 | 8.05 | 9.50 | 11.00 | 1.20 |

*Daily except Sunday.

†Saturday only.

PENINSULAR RAILWAY SCHEDULE.

| Miles | | a.m. | a.m. | a.m. | a.m. | a.m. | p.m. | p.m. |
|-------|--------------------|------|-------|-------|------|-------|-------|-------|
| 0 | Lv. Palo Alto----- | 6.55 | †7.40 | *7.50 | 9.00 | 10.00 | 12.30 | 2.28 |
| | | p.m. | p.m. | p.m. | p.m. | p.m. | p.m. | a.m. |
| | | 4.16 | 5.09 | 6.15 | 7.15 | 9.20 | 11.10 | 12.47 |
| 20.9 | Ar. San Jose----- | a.m. | a.m. | a.m. | a.m. | a.m. | p.m. | p.m. |
| | | 7.51 | 8.37 | 8.50 | 9.58 | 11.00 | 1.28 | 3.25 |
| | | p.m. | p.m. | p.m. | p.m. | p.m. | a.m. | a.m. |
| | | 5.17 | 6.07 | 7.15 | 8.13 | 10.18 | 12.08 | 1.28 |

*Daily except Sunday.

†Sunday only.

It will be noted from this schedule that many of the Peninsular trains leave Palo Alto for San Jose shortly after the departure of the steam trains of the Southern Pacific Company, which bears out the contention of complainants that the Peninsular Railway is operated as a connection with the Southern Pacific Company.

It is apparent that the Peninsular Railway Company expects little or no business between Palo Alto and San Jose on such a schedule, as the business is bound to gravitate to the line making the best time. It is likewise apparent that the reason why the Peninsular Railway runs its trains from Palo Alto shortly after the departure of a Southern Pacific train from San Francisco to San Jose is that such departure affords a good connection for passengers reaching Palo Alto on the Southern Pacific and destined to points on the Peninsular line intermediate to San Jose, such as Los Altos, Monte Vista, Meridian, Saratoga and Congress Springs.

The fact also that the Southern Pacific Company has practically abandoned all its steam service on the cut-off between Mayfield and Los Gatos and hires the Peninsular Railway to perform that service for it, further strengthens the conclusion that the operating schedules out of Palo Alto on the Peninsular road are designed to care for traffic

delivered it by the Southern Pacific Company and not to secure any appreciable volume of the local traffic either between Palo Alto and San Jose or Palo Alto and intermediate points. If, therefore, the Peninsular road is not operated in such a manner as to secure all of the traffic possible it can hardly plead that we allow the same rates as we would to a company operated to its maximum efficiency.

Before considering the question of discriminatory rates in favor of San Jose, which is really the principal cause of complaint on the part of the city of Palo Alto and which is based on the theory that the lower rates to San Jose having been voluntarily established are in and of themselves reasonable, I will endeavor to dispose of the minor contentions advanced by the various complainants and protestants.

The application of the Peninsular Railway to cancel round-trip theater tickets on sale after 6 p.m., should, in view of all the evidence, be permitted.

An application to increase the round-trip excursion rates on sale Sundays and legal holidays between Palo Alto, Mayfield and Congress Springs should be denied, it appearing that no attempt is being made to increase the round-trip excursion rates between Congress Springs and San Jose.

Palo Alto and vicinity is rapidly increasing in population and no good reason was advanced by the applicant why the rates from Palo Alto and vicinity to Congress Springs, and the application to increase the rate from Palo Alto and Mayfield should not only be denied, but the defendant should be required to maintain excursion rates on the same basis as from San Jose.

The complaint of the city of Palo Alto, alleging that no commutation rates are in effect and no commutation tickets sold between Palo Alto and Stanford University, and that this subjects patrons of the Peninsular line traveling between these points to great inconvenience is, in my opinion, without merit. The fare between Palo Alto and Stanford University is five cents and I see no reason why a lower fare by sale of commutation tickets or otherwise, should be expected.

It is also alleged that the transfer requirements of the defendant are unreasonable in the city of Palo Alto. The Commission does not look with favor upon a proposal to compel a carrier to issue transfers which will be honored at any points except where the connecting lines cross or meet, nor do I believe any carrier should be required to issue transfers that will permit passengers to practically return to their starting point.

Ordinarily the rates of interurban lines are made from depot to depot notwithstanding such interurban lines frequently own city lines doing a street car service in the various communities, but if in this case the defendant issues transfers to interurban passengers which enables

them to travel beyond the depot to points reached by the city car lines, then no just reason exists why the same privilege should not be extended to the citizens of Palo Alto.

Another contention of the complainants is that the round-trip excursion tickets advertised for sale on special occasions are sold only at the depots of the defendant and should be sold by the conductors. This is a very serious proposition. In some cases it might be entirely reasonable to have the conductor sell a form of round-trip ticket and in other instances it might not only be extremely inconvenient but subject the passengers to undue hazard by reason of the conductor's time being occupied selling tickets instead of properly operating his car.

I am not willing to recommend that electric lines generally be required to place excursion tickets in the hands of conductors to sell. There may be instances, as I have heretofore stated, where this could be done without inconvenience or risk, but it is impossible to lay down any general rule. Many serious accidents have occurred due to the fact that conductors were busy collecting tickets and either overlooked train orders or failed to properly flag their trains. The danger of such occurrences would be greatly increased were the additional burden of selling tickets to be placed on the conductors when traffic is heavy. I believe it safer to leave this matter in the hands of the carriers, with the suggestion that whenever possible without unduly burdening the conductor round-trip tickets should be sold by him.

This brings me to a consideration of the principal cause of complaint, namely, discriminatory rates in favor of San Jose as against Palo Alto, the rates to San Jose, and in some instances to Los Gatos, being deemed reasonable and therefore the rates to and from Palo Alto deemed unreasonable.

The complainants introduced a large amount of testimony showing the effect of these lower rates to San Jose on the business of Palo Alto.

Of course, a lower scheme of rates to San Jose has a tendency to draw business to that city. San Jose is now and has been for many years a natural shopping center for the territory closely adjacent to it and would probably hold a greater share of this business even though the rates be exactly the same to other towns. However, it is not the business of this Commission to foster trade for a particular community by countenancing discriminatory rates. The tariffs of the defendant, as well as the testimony of its own witnesses, establish conclusively the fact that the rates to and from San Jose, and in some cases to Los Gatos, are on a much lower basis than to Palo Alto. The explanation of the defendant concerning this condition was that the low rates were originally put in effect by the promoters of the Los Gatos Inter-urban Road running between San Jose and Los Gatos via Congress

Junction, and that when the Peninsular Railway was organized and took over this property it naturally inherited whatever rates were then in effect.

It was strenuously maintained that these rates are too low and that in constructing the line from Meridian north to Palo Alto an effort was made to put the rates in that territory on a reasonable basis although no attempt appears to have been made to harmonize the rates all over the system, and as a result, we have today one system of rates applying into San Jose and a higher system into Palo Alto.

A very important point in connection with this controversy must not be overlooked, and that is, that the rates out of San Jose are influenced by a rate of five cents for a distance of 3.6 miles to Bascome and five cents between San Jose and Cherry avenue on the Campbell-Los Gatos line for a distance of 3.6 miles. This is what has been termed street car territory, but the same may be said of the fare of five cents between Palo Alto and Mayfield Junction for a distance of 2.1 miles. To determine the extent of the discrimination in favor of one locality as against another we should first eliminate the mileage as far as this five-cent fare zone carries a passenger and build up the rates from that point on.

The city of Palo Alto is a thriving and growing community and no good reason appears why the rates should be any higher into Palo Alto than to San Jose or Los Gatos for approximately the same distance and service. Therefore, I am of the opinion and so find that the rates of all kinds, namely, single-trip, round-trip and commutation rates should be based on exactly the same rate per mile between all of these communities, first considering, of course, the proper influence that these five-cent fares in street car territory would have on rates to or from points beyond. Because of the complete revision of all rates which will necessarily follow, I will not attempt to prescribe the same at this time.

I will, therefore, recommend that the defendant be required to submit to the Commission within forty (40) days from date hereof a schedule of passenger fares not inconsistent with the findings in this opinion.

I submit the following order:

ORDER.

Peninsular Railway Company having filed an application with this Commission for permission to cancel all theater round-trip fares applying to Palo Alto, San Jose and Los Gatos from various points on its line and for permission to increase from thirty-five cents to fifty cents Sunday and holiday round-trip fares from Palo Alto, Mayfield and Los Altos to Congress Springs and a regular hearing having been had, and

City of Palo Alto, town of Mayfield, and chamber of commerce of Palo Alto, having filed a complaint with this Commission attacking as unjust, unreasonable and discriminatory all of the passenger fares of the Peninsular Railway applying between Palo Alto and Mayfield and various points on the Peninsular Railway, and a regular hearing having been had,

It is hereby found as a fact that in the respects and to the extent pointed out in the foregoing opinion, the rates and charges of defendant are discriminatory.

Basing its order on the foregoing finding of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered that the Peninsular Railway be and it is hereby granted authority to cancel said round-trip theater tickets, and, further, that permission to increase round-trip fares from Palo Alto, Mayfield and Los Altos to Congress Springs is hereby denied.

It is hereby further ordered that the Peninsular Railway within forty (40) days from the date hereof submit to this Commission for approval a schedule of rates in accordance with and not inconsistent with the findings hereinbefore set out in the opinion which precedes this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of April, 1915.

DECISION No. 2306.

DAVID A. CURRY

vs.

THE YOSEMITE VALLEY RAILROAD COMPANY, THE YOSEMITE TRANSPORTATION COMPANY, SOUTHERN PACIFIC COMPANY, AND ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 783.

Decided April 23, 1915.

Complainant petitions the Commission to compel defendant companies, operating transportation systems connecting between various points in California and Yosemite Valley, to establish a daylight service for passengers between San Francisco and Yosemite Valley, and upon investigation it appearing that there was considerable demand for such a service and that without serious inconvenience to defendants such a schedule could be established by alterations in the time schedules of Yosemite Transportation Company and Yosemite Valley Railroad Company.

Held, Yosemite Valley Railroad Company and Yosemite Transportation Company directed to establish a joint schedule which will permit of the arrival of passengers from the valley at Merced on or before 12.10 p.m. each day and will permit of their departure from Merced for the valley on or about 1.45 p.m. of each day, such schedule to be in operation for the period May 1st to October 1st of each year, beginning 1915. No order made affecting Southern Pacific Company and Santa Fe Railway, as present schedules of such roads will provide daylight service when operated in conjunction with schedule herein established.

David A. Curry, in propria persona.

Chas. P. Cutten, for Yosemite Valley Railroad Company and Yosemite Transportation Company.

Geo. D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is a complaint of David A. Curry against the Yosemite Valley Railroad Company, the Yosemite Transportation Company, the Southern Pacific Company, and the Atchison, Topeka and Santa Fe Railway Company requesting that the defendant companies be ordered to establish and maintain an all daylight service between San Francisco and Yosemite in each direction during the period from May first to September first of each year, thereby eliminating the necessity of stopover at El Portal.

All of the defendants filed answers denying the material allegations of the complaint.

The present schedule operated between San Francisco and Yosemite and between Yosemite and San Francisco is as follows:

Southern Pacific.

| | | |
|---------------|---------------------|----------------|
| Lv. 9.20 a.m. | San Francisco ----- | Ar. 4.10 p.m. |
| Lv. 9.52 a.m. | Oakland ----- | Ar. 3.32 p.m. |
| Ar. 2.14 p.m. | Merced ----- | Lv. 11.10 a.m. |

Atchison, Topeka and Santa Fe.

| | | |
|---------------|---------------------|----------------|
| Lv. 9.00 a.m. | San Francisco ----- | Ar. 5.30 p.m. |
| Lv. 9.20 a.m. | Oakland ----- | Ar. 5.00 p.m. |
| Ar. 1.45 p.m. | Merced ----- | Lv. 12.30 p.m. |

Yosemite Valley Railroad.

| | | |
|---------------|-----------------|----------------|
| Lv. 2.40 p.m. | Merced ----- | Ar. 11.00 a.m. |
| Ar. 6.20 p.m. | El Portal ----- | Lv. 7.20 a.m. |

Yosemite Transportation Company.

| | | |
|---------------|-----------------|---------------|
| Lv. 7.00 a.m. | El Portal ----- | Ar. 5.00 p.m. |
| Ar. 8.30 a.m. | Yosemite ----- | Lv. 3.30 p.m. |

During the summer months an additional night service is provided from San Francisco, the schedule of same for the season of 1914 being as follows:

Southern Pacific.

| | | |
|----------------|---------------------|----------------|
| Lv. 11.40 p.m. | San Francisco ----- | Ar. 10.00 p.m. |
| Lv. 12.17 a.m. | Oakland ----- | Ar. 9.29 p.m. |
| Ar. 4.50 a.m. | Merced ----- | Lv. 5.40 p.m. |

Atchison, Topeka and Santa Fe.

| | | |
|----------------|---------------------|----------------|
| Lv. 11.55 p.m. | San Francisco ----- | Ar. 10.30 p.m. |
| Lv. 11.55 p.m. | Oakland ----- | Ar. 10.10 p.m. |
| Ar. 6.00 a.m. | Merced ----- | Lv. 5.55 p.m. |

Yosemite Valley Railroad.

| | | |
|----------------|-----------------|----------------|
| Lv. 8.00 a.m. | Merced ----- | Ar. 11.35 a.m. |
| Ar. 11.35 a.m. | El Portal ----- | Lv. 8.00 a.m. |

Yosemite Transportation Company.

| | | |
|----------------|-----------------|---------------|
| Lv. 12.30 p.m. | El Portal ----- | Ar. 5.00 p.m. |
| Ar. 2.00 p.m. | Yosemite ----- | Lv. 3.30 p.m. |

The overwhelming evidence in this case shows that the large majority of the people going to Yosemite Valley from San Francisco prefer to make the trip entirely in one day. Serious objection is shown to exist on the part of travelers to being compelled to break their journey and stop over night at El Portal. Several excursion agents, whose business it is to gather people together for a trip into Yosemite Valley, testified that such excursionists always requested to be landed in the valley in one day without being compelled to stop at El Portal. It appears that where these excursion agents obtain special trains for their parties, these trains were always run on a schedule which provided for a continuous trip into the valley. The same evidence was given as to the desire of the traveler for an unbroken daylight schedule from the valley to San Francisco.

The fact that the public are interested in the establishment of a daylight schedule is evidently known to the officials of the defendant, Southern Pacific Company. Mr. E. E. Wade, assistant general passenger agent of that company, testified as follows:

"I don't want to be understood as opposed to the daylight service. I wish it were possible to have a daylight service from San Francisco to the Yosemite Valley. I know the Southern Pacific would like to have a daylight service from Sacramento to the Yosemite Valley, and we have a daylight service to the north as far as Shasta Springs; we have a daylight service to Lake Tahoe; we have a daylight service to almost all our resorts in California.

"We also have a night service; in other words, we have a double daily service. People can take their choice and travel as they please, and they do so. If we had that same condition to Yosemite, it would please us very much."

I am of the opinion that public necessity and convenience require the establishment by the defendants of a schedule that will permit the trip from San Francisco to Yosemite, and in like manner the trip from Yosemite to San Francisco, to be accomplished during the daylight hours. By the establishment of such daylight schedule, the convenience of the public would be served, and in connection with the night schedule operated during the summer months a choice of either daylight or night trips could be made, placing Yosemite in the same position regarding

a selection of train service as now exists with other principal resorts in California.

The practicability of a daylight schedule is now to be considered, it having been contended by defendant, Yosemite Valley Railroad, that an all daylight schedule was unreasonable and that an all daylight period was inadequate time for a train service from San Francisco to Yosemite.

The two principal objections offered to the establishment of a daylight schedule were the alleged difficulties in connection with the operation of the automobile stage line of the Yosemite Transportation Company between El Portal and Yosemite and in the turning of the train of the Yosemite Valley Railroad at Merced after having arrived from El Portal and preparatory to the return trip.

As to the stage line, it was shown that although the time schedule between El Portal and Yosemite, in both directions, had been published for a long time as requiring one hour and thirty minutes, that the average running time from El Portal to Yosemite had been for the month of June, 1914, a period of two hours one and a fraction minutes, and for the outbound trip about one hour and forty-five minutes. These averages have been obtained by dividing the entire time consumed by the number of trips and have not excluded time consumed on extraordinary trips where breakdowns or delays occurred.

The operation of the automobile stages of the Yosemite Transportation Company between El Portal and Yosemite is subject to the regulation of the superintendent of national parks as regards speed and other features of operation, although the general rules and regulations governing the admission of automobiles into the Yosemite National Park for the season of 1915 were held not to apply between the junction of the Coulterville road and the branch from such road running to El Portal, with the exception of Rule 7, as to speed, which is general in its application and applies to all roads upon which automobile traffic is permitted within the Yosemite National Park reservation.

It appears that the federal regulations as published for the information and government of the general automobile traffic are not intended specifically to apply or to be enforced in regard to automobile stages operating under a concession from the interior department of the federal government, and while the matter of the speed regulation as fixed by Rule 7 of the federal regulations as a safety requirement would be insisted upon, it is not unreasonable to assume that the superintendent of national parks would permit such reasonable regulations for the operation of the automobile stages into Yosemite from El Portal as to enable the general public to be accommodated. In case of delay it may be that the trains of the Yosemite Valley Railroad would reach El Portal too late to enable passengers to be trans-

ported over the stage line from El Portal to Yosemite Valley during daylight hours, and in such cases the run from El Portal to Yosemite would have to be made after the hours of daylight.

It appears, however, that in the past night trips have been made by stages of the Yosemite Transportation Company upon special permission of the assistant superintendent of national parks, and whenever such permission for night operation has been requested it has always been granted. It appears, therefore, that an application to the federal authorities for a seasonal permit enabling the operation of automobile stages after daylight hours between El Portal and Yosemite, such permission to be available for use at such times as when accident or unforeseen delay rendered it necessary, would meet with the careful consideration of such authorities and if granted would render unnecessary the obtaining of individual permits for specific occasions upon short notice.

Considerable stress was laid upon the necessity of an interval of one hour being required at El Portal for the purpose of checking baggage and loading and unloading stages in connection with the transfer from stage to railroad at that point. In the year 1913, during the months from April to September, on train No. 2 there were handled 5,992 passengers, an average of 32.7 per day, and during the year 1914, for the same period, there were handled a total of 3,549 passengers, an average of 19.4 per day. Train No. 2 carried during the months from May to August, inclusive (the months that the night passenger train was in service, and the heaviest months in the season), during the year 1913, a total of 2,905 passengers, and in the year 1914, during the months from May to July, inclusive (during which months the night service was operative), a total of 2,114 passengers, an average of 23.6 per day and 22.98 per day, respectively.

Even assuming that the establishment of daylight service would increase the number of passengers desiring to make the trip to Yosemite and increase the average above that heretofore handled, with proper facilities for the checking of baggage and the transfer of same at El Portal the transfer should be accomplished in a shorter time than the one hour stated to be necessary; and the combined activities of the employees of the Yosemite Transportation Company and the Yosemite Valley Railroad Company at El Portal station should be concentrated at the time of transfer at El Portal upon the prompt checking of baggage and discharge or dispatch of stages at that point.

In connection with the operation of the Yosemite Valley Railroad Company, the scheduled running time, El Portal to Yosemite, in either direction is three hours and forty minutes. The alignment of the track between El Portal and Merced Falls contains a great amount of curvature and is not of a character that would permit of fast time being made over this section of the railroad. The track between the

stations of Merced Falls and Merced is over comparatively level country, with few curves and no adverse grades and would appear susceptible of faster time of operation than is contained on the present schedule, especially in view of the testimony of the general manager of the Yosemite Valley Railroad that the track is in first class condition.

If no increase of the speed of trains under the schedule were contemplated in connection with the establishment of a daylight service, then such portion of the track could be used in making up time lost by any slight delays en route.

Considerable testimony was offered by witnesses for the defendant, Yosemite Valley Railroad Company, regarding the length of time necessary to prepare the trains of that company for the return trip after having arrived at Merced from El Portal. The location of the tracks of the Yosemite Valley Railroad Company at Merced is such that not only is the station of the Yosemite Valley Railroad Company served, but also the stations of the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway; in fact, the bulk of the passenger traffic of the Yosemite Valley Railroad Company is derived from the stations of the Southern Pacific and Santa Fe companies. In order to serve the three railroad stations above mentioned it is necessary for the train arriving at Merced to go to each station to deliver and discharge passengers, baggage, mail, express and parcel post, to turn the equipment ready for the outbound movement to El Portal, and to pick up passengers and load express, baggage, mail and parcel post for the return trip.

In the opinion of witnesses for the defendant, Yosemite Valley Railroad, the time consumed in this operation would vary from two hours and five minutes to two hours and ten minutes, the latter being the figure given by the general manager of the Yosemite Valley Railroad as being required during the season of heavy travel, and which contemplated an interval of forty minutes during which the train crew would secure lunch at Merced and return to the train. Deducting this forty minutes from the figures of Mr. Lehmer the turn-around at Merced could be accomplished in one and one half hours on the basis of requiring the train crew to make arrangements for their lunches without tying up the train for such purpose.

A tentative schedule was prepared by the railroad service inspector of the Commission, which allowed a period of one hour and thirty-five minutes for the operation of turning train, discharging and loading passengers at Merced.

Considering the average number of passengers that would probably be handled on the basis of figures introduced as representing the traffic during former years, it would appear that under ordinary conditions the turn-around at Merced could be accomplished without interfering

with the practicability of a daylight schedule from San Francisco to Yosemite. Testimony was introduced to the effect that the large amount of express matter to be handled might interfere with the prompt leaving time of the train, but as the express matter is handled by the employees of Wells Fargo & Company express, it is incumbent on that company to provide sufficient force to promptly handle their business.

I am of the opinion that a daylight schedule from San Francisco to Yosemite, and in like manner a daylight schedule from Yosemite to San Francisco, during the months from May to September, inclusive, is practicable, and that such schedule will require but reasonable adjustment of the schedules of the Yosemite Valley Railroad Company and the Yosemite Transportation Company, the schedule of the Atchison, Topeka and Santa Fe Railway Company requiring no change to accomplish the daylight schedule, and the schedule of the Southern Pacific Company requiring but the addition of a train connection between Tracy and Merced to accommodate patrons who might desire to use that line from San Francisco to Merced.

The establishment of a train schedule on the Yosemite Valley Railroad by which passengers will arrive at Merced from El Portal at or before 12.10 p.m. will enable passengers to complete their journey to San Francisco in daylight hours, either by the trains of the Southern Pacific Company or the Atchison, Topeka and Santa Fe Railway Company, arriving at San Francisco at 7.50 p.m. and 6.45 p.m., respectively, and will also afford convenient connections for points south of Merced on both the Southern Pacific and Santa Fe lines, and without any interference with the existing schedules of either of these companies which are serving the transportation needs of many other communities than those who may be interested and concerned in the schedules serving the Yosemite Valley.

The establishment of a train schedule by the Yosemite Valley Railroad Company leaving Merced for El Portal at or about 1.45 p.m. will provide a daylight service for passengers for Yosemite from San Francisco. In the preparation of the attached order, the Southern Pacific Company is not specifically required to establish a train service from Tracy to Merced which would make possible the daylight service via that line, San Francisco to Merced, thence via Yosemite Valley Railroad and Yosemite Transportation Company to Yosemite, for the reason that the present service of the Atchison, Topeka and Santa Fe Railway Company provides accommodation for passengers desiring to take the daylight service from San Francisco to the Yosemite Valley. This schedule also provides for passengers from points south of Merced by leaving Merced on the Yosemite Valley Railroad at or about 1.45 p.m. who may arrive at Merced on the trains of either the Southern Pacific Company or the Atchison, Topeka and Santa Fe Railway Company.

It appeared at the hearing that passengers coming out of the Yosemite Valley would, if necessary, be willing to leave that point as early as 6 a.m. and it appears possible and practicable to prepare a schedule for the stage line operated by the Yosemite Transportation Company that would deliver passengers and their baggage at El Portal in sufficient time to enable Yosemite Valley Railroad Company to deliver passengers at Merced at or before 12.10 p.m., and in like manner by cooperation with the employees of the Yosemite Valley Railroad Company at El Portal to facilitate the transfer and loading of passengers and their baggage upon stages upon the arrival of the train leaving Merced at or about 1.45 p.m. that would enable arrival of all passengers at Yosemite during daylight hours.

In the preparation of the accompanying order, the defendant, Atchison, Topeka and Santa Fe Railway Company, is referred to for the reason that its present schedules offer train service that would render possible daylight service between San Francisco and Yosemite in either direction.

I herewith submit the following form of order:

ORDER.

David A. Curry having filed complaint with this Commission against the Yosemite Valley Railroad Company, the Yosemite Transportation Company, the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company, requesting that a through route on a daylight schedule be established and maintained between San Francisco and Yosemite, and in like manner between Yosemite and San Francisco, during the months from May to September, inclusive, in each year, and a public hearing having been held and the Commission being fully apprised in the premises, and being of the opinion that the public convenience and necessity require the establishment of such a through route and service from San Francisco to Yosemite, and in like manner from Yosemite to San Francisco, and that same is practicable and should be established,

It is hereby ordered that the Yosemite Valley Railroad Company and the Yosemite Transportation Company shall establish and maintain a through route on a schedule that will permit of the arrival of passengers from the Yosemite Valley at Merced on or before the hour of 12.10 p.m. of each day, and that will provide for the departure of passengers from Merced for Yosemite Valley on or about the hour of 1.45 p.m. of each day and such schedule to be in lieu of that now operated and which provides for the arrival of passengers at Merced from El Portal at 11 a.m. and their departure from Merced for El Portal at 2.40 p.m.; and

It is hereby further ordered that the Yosemite Valley Railroad and the Yosemite Transportation Company shall establish and commence the operation of said schedule on or before the first day of May, 1915, and

shall continue same until the first day of October, 1915, and thereafter during the same period of each year, unless otherwise ordered by this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of April, 1915.

DECISION No. 2307.

R. S. HUNT ET AL.

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 743.

Decided April 20, 1915.

The twenty complainants herein petition the Commission to compel defendant company to extend its lines so as to serve them with electric energy, and an investigation establishing the fact that it would take over \$3,000.00 to construct the necessary extensions, portions of which would be over private property, and taking into consideration that complainants desire energy only for lighting purposes; that though the Commission has heretofore held that each service connection can not be made to bear an equal relation to the cost of service, under conditions in this particular case defendant should not be compelled to bear the entire cost of the necessary extensions.

Held, Defendant directed to extend its lines to serve the houses of complainants, provided complainants pay all cost of extensions over private property and shall guarantee a certain proscribed minimum yearly bill, such minimum to be reduced 25 cents for each additional lighting consumer or each two horsepower of motor connected.

F. M. Colman, for Complainants.

Charles P. Cullen, for Defendant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

This is the complaint by R. S. Hunt and nineteen other persons residing on Stevens Creek road, Monte Vista avenue, Blaney avenue and Bollinger road, adjacent to the town of Cupertino, Santa Clara County, against the Pacific Gas and Electric Company, alleging that defendant refuses to extend its lines to serve complainants unless they advance the cost of the lines, and requesting that defendant be required to render electric service without cost to patrons.

This complaint was first taken up informally and later when a settlement was not reached the formal complaint was filed. Hearings were held on January 12th, March 5th and April 5th, at which evidence

was submitted by the complainants, the Commission's engineers and the defendant.

It appears from the evidence that the twenty complainants reside on Stevens Creek road, east of Cupertino, and on Monte Vista avenue, Blaney avenue and Bollinger road; that at present lighting service only is desired, and there are no definite prospects for power installations.

The defendant company has an 11 kilovolt line running through the town of Cupertino and a secondary distribution system serving lighting consumers for about 1,200 feet along Stevens Creek road. To serve the twenty complainants will require the reconstruction of 1,200 feet of secondary line on Stevens Creek road and the extending of primary lines thereon, the addition of 1,320 feet of primary line along Stevens Creek road, 1,300 feet along Monte Vista avenue, 5,000 feet along Blaney avenue, 1,600 feet along Bollinger road and 1,500 feet across private property, about 3,100 feet of secondary extension on primary extension poles and 1,800 feet of secondary pole line extension, the hanging of eight 1-kilowatt transformers and serving of twenty lighting consumers.

The defendant's engineers have estimated the total cost to serve the twenty complainants at \$3,318.30, which includes the cost of extensions across private property, and the cost of constructing a three-phase primary line along all public roads. This extra construction is not required for the present requested services, but will in all probability be justified by the saving of the extra expense required to string the third wire at a later date, should a power load be obtained on these lines.

From a consideration of the location of the various complainants' residences, it appears that the complainants located on Stevens Creek road, Monte Vista avenue and Blaney avenue, near Stevens Creek road, can be served at considerable less expense per consumer than those located on south Blaney avenue and Bollinger road.

Estimates of the cost of extensions required to serve the more thickly settled territory, including nine and eleven consumers, and the cost of the total extension were submitted by Mr. Ready, of the Commission's engineering department.

The first estimate covered the cost of serving the nine complainants, Messrs. Frost, Hunt, Wilson, Meyer, Wendt, Wagnitz and Carpenter, and Mesdames Green and Higgins.

The second estimate included the above, and in addition services to Messrs. Bagar and Kresegia, which require private extensions. The third estimate included the cost of serving all twenty complainants.

Estimate No. 1—Nine Consumers.

| | |
|-------------------------------------|------------|
| Cost of extension and services----- | \$1,024 40 |
|-------------------------------------|------------|

Estimate No. 2—Eleven Consumers.

| | |
|---|------------|
| Cost of construction on public road and services----- | \$1,201 20 |
| Cost of extensions across private property----- | 113 00 |

\$1,314 20

Estimate No. 3—Twenty Consumers.

| | |
|---|------------|
| Cost of construction on public road and services----- | \$2,689 60 |
| Cost of extensions across private property----- | 359 50 |
| | <hr/> |
| | \$3,049 10 |

It appears that in Estimate No. 1 there are no extensions across private property. There are two private extensions included in Estimate No. 2, one to the residence of Mr. Bagar and one to that of Mr. Kresglia. In Estimate No. 3 three extensions across private property will be required, in addition to the two above mentioned, one primary extension to serve Messrs. Mohr's and Newton's residences, and two separate secondary extensions to serve the residences of Messrs. Wells and White.

From the estimate of the total cost of service submitted it appears that should these consumers bear their proportion of the total cost, they would each be required to pay an annual minimum of at least \$22.70 in case of Estimate No. 1, \$22.10 in case of Estimate No. 2, and \$25.45 in case the twenty complainants were served, in addition to the persons served bearing the cost of the extensions across private property.

In this case it appears as just to all parties considered to require that extensions across private property be constructed at the expense of the consumer served. The cost of construction along the highway per consumer served is much in excess of the average cost, and the revenue to be received from lighting service does not justify as heavy expense for private extensions in addition to the cost along the public roads. To include these expenses in the company's investment will only increase the guarantee to be made by the other complainants. The high annual cost of service, compared with the average for residence-lighting consumers, is primarily due to the excessive local investment required in this case.

The defendant company, which is enjoying a monopoly of the business in this district, should not expect that each service should, at least at the start, bear its total proportion of the cost of service. Rates have been averaged for lighting service, and to require each service to bear its exact cost, were it determinable, would cause an infinite multiplicity of rates. Where lighting service is a secondary consideration to power sales in rural territory, there may be certain reasons for not requiring the consumer to pay more than the regular minimum. In this case, however, the complainants request that the company be required to extend its lines for lighting service only, without additional cost to them. Were this ordered, the defendant would be required to invest about \$3,000.00 for which an annual revenue of approximately \$360.00 would be obtained.

Although the defendant should not expect to receive the total cost of service from every new consumer at the start, still I consider that in this case it should not be required to serve complainants unless they guar-

antee defendant a revenue in excess of the present minimum rate and in addition bear the expense of extensions across private property.

I, therefore, recommend that the defendant be required to extend its lines and serve all twenty complainants provided they, complainants, will bear the expense of extensions across private property, and in addition guarantee defendant, for a period of three years, an annual minimum of \$22.00 each; the minimum to be reduced 25 cents for each lighting consumer added, and 25 cents for each two horsepower of motors connected.

Should any of the complainants decline to guarantee the above and those included in Estimates No. 1 and No. 2, desire to be considered separately, I recommend that the defendant be ordered to serve the complainants included under Estimates No. 1 and No. 2, provided that extensions across private property be paid for by consumers served, and at least nine or eleven, respectively, guarantee defendant a revenue of \$1.50 per month each for a period of two (2) years.

I therefore recommend the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding, and the case having been submitted and now being ready for decision, and the Commission finding that the directions herein given are just and reasonable,

It is hereby ordered that Pacific Gas and Electric Company extend its distribution lines along Stevens Creek road, Monte Vista avenue, Blaney avenue and Bollinger road as far as necessary to serve complainants in this case, and thereafter serve them with electricity for lighting and any power required, provided the twenty complainants or twenty residents along the line will enter into an agreement with defendant, each guaranteeing it an annual minimum of \$22.00 per year, each minimum to be reduced 25 cents for each additional lighting consumer and 25 cents for each two horsepower of motor connected to the line; and, further, that persons requiring extensions across private property shall agree to build or have built these private extensions at their own expense.

It is hereby further ordered that should the complainants refuse to meet the requirements of the above order, the Pacific Gas and Electric Company extend its lines along Stevens Creek road, Monte Vista avenue and Blaney avenue and serve the houses of Messrs. Frost, Hunt, Wilson, Meyer, Wendt, Wagnitz and Carpenter and Mesdames Green and Higgins, or any other residence which can be served from the lines required to serve those named, provided:

1. That the last mentioned nine complainants, or any eleven consumers who can be served from these lines, shall enter into an agreement

with defendant whereby each guarantees to pay defendant a monthly minimum bill of \$1.50 for a period of two years.

2. That extensions across private property be built at the expense of the consumer served.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of April, 1915.

DECISION No. 2308.

IN THE MATTER OF THE APPLICATION OF ROSA S. SPAULDING TO SELL AND THE FOOTHILL DITCH COMPANY TO BUY THAT CERTAIN DITCH KNOWN AS THE POGUE, WALLACE AND CROCKER DITCH.

Application No. 1576.

Decided April 20, 1915.

Rosa S. Spaulding authorized to transfer a certain ditch system to R. C. Merryman and the latter to transfer same to the Foothill Ditch Company, for a consideration of \$15,000.00 in cash or notes and the assumption of liens amounting to \$12,665.00.

D. E. Perkins, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application of Rosa S. Spaulding to sell to R. C. Merryman, as trustee, and he in turn to sell to the Foothill Ditch Company, that certain ditch system known as the Pogue, Wallace and Crocker ditch and more definitely located as follows:

All that certain water ditch known as the Pogue, Wallace and Crocker ditch, and sometimes known as Pogue's lower ditch, which said ditch commences in the Kaweah River on section twenty-six (26) in township seventeen (17) south, range twenty-seven (27) east of the Mount Diablo Base and Meridian, and the termination thereof is on section twenty-nine (29) in township nineteen (19) south, range twenty-seven (27) east, of said base and meridian in said county of Tulare, which said ditch is of a length of eighteen miles, more or less, together with all the right, title, interest and estates of said party of the first part in and to all rights of way, all viaducts, flumes, bridges and other appurtenances belonging to or connected with said ditch, which said ditch is the same ditch conveyed to J. W. C. Pogue by the Kaweah Power and Water Company, by deed made, executed, acknowledged and delivered on the fifth day of May, 1903, and recorded in Vol. 113 of Deeds, page 179, Tulare County Records, and the right to divert from said river all the six cubic feet of water which said J. W. C. Pogue acquired from said Kaweah Power and Water Company by said deed.

Also all ditches and canals, rights of way, viaducts, embankments, buildings, office, engine houses, wood houses, oil tanks, machine shops and other shops, fences, telegraph lines, pipes, mains, conduit pumps, dynamos, motors, belting, engines, boilers, regulators, poles, trolleys, feeders, cables, wires, switchboards, stable and all things of whatever kind appurtenant thereto at the time of the execution and delivery of this indenture.

The Foothill Ditch Company was incorporated under the laws of this State on the twenty-third day of April, 1914, for \$10,000.00 capital stock, divided into 10,000 shares of a par value of \$1.00 each. The principal owner of this corporation is R. C. Merryman, acting for the Merryman Fruit, Land and Lumber Company.

Prior to May, 1914, Rosa S. Spaulding, individually, owned and operated the aforementioned ditch system. Due to lack of capital, she was unable to make necessary additions and betterments to the system and for this reason disposed of the property.

A public hearing was held in this matter on March 9, 1915. The consumers, some twenty in number, present at the hearing, offered no objection to this transfer.

Although the purchase of the property was actually consummated in May, 1914, applicants failed to apply to this Commission for permission to make the transfer and now ask to have the transfer legally authorized.

Applicants have agreed that a fair price for the ditch system is \$15,000.00 in cash or notes. Said purchasers also to assume and satisfy all that certain lien in favor of certain users of water from said ditch and against said ditch amounting, at the date of transfer, to \$12,665.00, which was created by a decree of the superior court of Tulare County, entered and dated September 11, 1911, in the action commenced by Mercantile Trust Company of San Francisco against the Central California Irrigation Company.

The engineers of the Commission have prepared a valuation of the property involved and have estimated the present value as \$27,950.00 which practically agrees with the purchase price of \$27,665.00.

Since May, 1914, many improvements have been made by the purchaser, and I am of the opinion that public convenience will best be served by the transfer of this property.

I submit the following form of order:

ORDER.

Rosa S. Spaulding having made application to sell to R. C. Merryman, and he in turn to sell to the Foothill Ditch Company, and R. C. Merryman and the Foothill Ditch Company having made application to buy that certain ditch known as the Pogue, Wallace and Crocker ditch, and a public hearing having been held, and the Commission being fully apprised in the premises.

It is hereby ordered by the Railroad Commission of the State of California that Rosa S. Spaulding be and hereby is authorized to sell to R. C. Merryman, and he in turn to the Foothill Ditch Company, that certain ditch known as Pogue, Wallace and Crocker ditch, subject to the terms of that certain contract made on the fifteenth day of April, 1914, between Rosa S. Spaulding and R. C. Merryman.

The price to be paid is the sum of \$15,000.00 in cash or notes, said purchasers also to assume and satisfy all that certain lien in favor of certain users of water from said ditch and against said ditch amounting, at the date of transfer to \$12,665.00, which was created by a decree of the superior court of Tulare County, entered and dated September 11, 1911, in the action commenced by Mercantile Trust Company of San Francisco against the Central California Irrigation Company.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of April, 1915.

DECISION No. 2309.

IN THE MATTER OF THE APPLICATION OF THE FOOTHILL DITCH COMPANY TO INCREASE RATES FOR WATER.

Application No. 1457.

Decided April 20, 1915.

Applicant applies for permission to increase its rates for water for irrigation purposes, and after investigation it appearing that such application is reasonable, a schedule of 12 cents per miner's inch per twenty-four hours, together with a charge of \$5.00 per second foot per month for water transported to the Wallace ranch, established.

D. E. Perkins, for Applicant.

E. R. Griffith, for Consumers.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application of the Foothill Ditch Company to increase rates for water used for irrigation. The Foothill Ditch Company was incorporated under the laws of this State on the 23d day of April, 1914.

Applicant receives its water supply from the Kaweah River, in Tulare County, at a point in section 26, township 17 south, range 27 east, M. D. B. and M. The ditch, some seventeen miles in length, extends in a general southerly direction from the intake to a point in section 29, township 19 south, range 27 east.

The original ditch and structures were constructed in 1860. In 1896 the ditch was enlarged and extended. During the past few years the ditch was allowed to run down, and, in order to protect the consumers, the Merryman Fruit, Land and Lumber Company purchased the ditch in May, 1914, and have since operated it under the name of the Foothill Ditch Company. This ditch has an adjudicated right to the use of six cubic feet per second of the waters of Kaweah River, which practically insures a steady and continuous flow during the entire irrigation season. The company also has a right to all the surplus water it can carry above six second feet after the rights of the other ditches are satisfied, therefore, their average supply during the irrigating season is somewhat in excess of six cubic feet per second.

The present rates charged for water were fixed by old contracts made at the time of the sale of the land and ranged from four cents per miner's inch per day to sixteen and two thirds cents per miner's inch per day. The average rate per miner's inch per day is \$.0816.

A public hearing was conducted in Exeter on March 9, 1915, at which time a number of consumers testified in regard to the quality of water service and the propriety of the present established rates, and the company presented evidence to support its contention that rates were inadequate. The consumers were universal in their opinion that under the management of R. C. Merryman, president of the Foothill Ditch Company, improvements will be made and the service greatly improved.

Mr. Merryman of the company stated in testimony that he will agree to sell the system to the consumers for the amount that he has invested at any future date and further stated that all he desires in rates is a fair return on the money actually invested.

A valuation was prepared by the Commission's engineers in connection with the sale of the property under Application No. 1576, which valuation showed a present value of \$27,950.00, or \$285.00 higher than the purchase price of \$27,665.00.

The sum of money expended by the Foothill Ditch Company in the plant, net, is as follows:

| | |
|------------------------------|--------------------|
| Purchase price ----- | \$27,665 00 |
| Necessary improvements ----- | 8,251 00 |
| Total investment ----- | <u>\$35,916 00</u> |

The only testimony by applicant upon which to base the maintenance and operation expenses of this system is a statement of total expenditures for the year 1914. The system was admittedly in a very poor condition in May, 1914, and undoubtedly a part of these expenditures should be charged to capital account, but in what proportion it is difficult to determine. From such data as is available I find the reason-

able and necessary maintenance and operating expenses to be as follows:

| | |
|---|-------------------|
| Insurance | \$49 00 |
| Office and overhead..... | 116 00 |
| Taxes | 63 00 |
| Cleaning ditch, repairing flumes, etc..... | 1,890 00 |
| Ditchtender, six months at \$70.00 per month..... | 420 00 |
| Miscellaneous material and supplies..... | 300 00 |
| Legal and extraordinary expense..... | 275 00 |
| Water bought and pumped..... | 329 00 |
| Total maintenance and operating..... | \$3,442 00 |

After a careful review of the testimony in this case, I am of the opinion that a gross annual revenue of \$6,861.00 should net applicant a fair return upon its investment, after providing for depreciation.

Applicant submitted a statement of water use and revenue for the year 1914. In so far as water use is concerned, the evidence shows the year 1914 was an exceptionally wet year and a considerable quantity of surplus water was distributed, which in a year of average or normal rainfall would not be available. Mr. Merryman, for applicant, estimated that the yield during an average year would be approximately 60,956 miner's inches days. At the average price which applicant has been receiving in the past for water, it is evident that the gross return in a year of normal rainfall would be insufficient.

There is one user of water, namely, C. E. Goodale, of the Wallace ranch, who transports water through the ditch of the Foothill Ditch Company from the Kaweah River to his ranch, some three miles from the intake. For this service he pays nothing at present. Mr. Goodale has an adjudicated right to divert three cubic feet per second from the water of the Kaweah River and owns a one third interest in the ditch from his ranch to the intake. I am of the opinion that Mr. Goodale should bear his proportional part of the expense of maintaining and operating the ditch.

I will therefore recommend that a rate of 12 cents for one miner's inch (1/50 second foot) for twenty-four hours for water used for irrigation purposes, and a charge of \$5.00 per second foot per month for water transported to what is known as the Wallace ranch, be established.

I submit herewith the following form of order:

ORDER.

The Foothill Ditch Company having made application for an increase in rates, and a public hearing having been held, and the Commission being fully apprised in the premises,

It is hereby found as a fact by the Railroad Commission of the State of California that the present rates of the Foothill Ditch Company are unjust and unreasonable rates, and the rates set out in this opinion and order are hereby found to be just and reasonable rates to be charged

consumers for water by the Foothill Ditch Company, and basing its order upon the foregoing findings of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered by the Railroad Commission of the State of California that the rates to be charged for water by the Foothill Ditch Company shall be as follows:

12 cents per miner's inch (1/50 second foot) per twenty-four hours.

For all water transported for use at the Wallace ranch, \$5.00 per second foot per month.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of April, 1915.

DECISION NO. 2310.

IN THE MATTER OF THE APPLICATION OF THE CITY OF COMPTON FOR PERMISSION TO CONSTRUCT LAUREL STREET AT GRADE ACROSS THE TRACKS OF SOUTHERN PACIFIC COMPANY, IN THE CITY OF COMPTON, LOS ANGELES COUNTY, CALIFORNIA.

Application No. 1224.

Decided April 20, 1915.

City of Compton authorized to construct Laurel street across the tracks of Southern Pacific Company at grade, provided that the city shall bear cost of such construction.

Edward T. Sherer, for Applicant.

Geo. D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This application, as originally filed with the Commission on July 6, 1914, requested permission to construct Almond street at grade across the tracks of Southern Pacific Company. On March 8, 1915, the application was amended by substituting Laurel street for Almond street, and a hearing was held on the amended application in Compton, April 9, 1915.

The tracks of the Southern Pacific run through Compton in a north and south direction. Main street is the principal street now open across the tracks, and from this street south there is no other opening across the tracks for nearly half a mile. East of the tracks and south of Main street there is a settlement containing twenty or twenty-five houses, and it is to serve the people in this colony, as well as to make the territory adjacent accessible and convenient to the city, that this

crossing of Laurel street, about 1,000 feet south of Main street, is applied for. The principal business portion of Compton is northwest of this subdivision, and the greater part of the travel will continue to be on the Main street crossing, regardless of the disposition made of this application, although there are some stores which can be reached more conveniently over this proposed crossing than over the Main street crossing. The principal need for this proposed crossing, however, is for the use of school children. The school is so located that children resident in this district east of the track and south of Main street could save a distance of about 2,000 feet to and from school if Laurel street were opened, and I am of the opinion that this fact, together with the long distance between crossings in this vicinity, is sufficient to prove the need of this crossing. The Southern Pacific Company will make no objection to granting an easement if the Commission sees fit to permit this crossing to be opened.

The tracks to be crossed here are those of the Southern Pacific Company's San Pedro branch. There are but two scheduled trains over them and both of these trains now pass through Compton in the night. During certain seasons of the year, however, extra trains are run to take beets to the sugar factories and extra trains are also run to and from San Pedro as the traffic from the boats warrants. The danger to human life on a crossing with infrequent and irregular traffic over it is often greater than on a crossing which has a large number of trains, since those who use it become accustomed to crossing the tracks without seeing trains to protect themselves against, and grow careless. In this particular case there are at present no obstructions to the view, and Laurel street will be so laid out that a right-angled turn will be made immediately before or immediately after passing over the crossing, so the speed of automobiles will necessarily be slow, and I believe no protection is needed at this time other than the usual crossing sign. It is the opinion of the city officials of Compton that when this crossing is opened the territory east of the tracks will have a large development and will settle up rapidly. Should this territory build up to fulfill these expectations, or should the physical conditions at the crossing change, some protection may be needed, and I believe the Commission should reserve the right to order this protection when it is so needed, and should provide for its expense on the usual terms, namely: require the city to pay for the installation of the protection device and the railroad company to maintain it.

I recommend the following form of order:

ORDER.

City of Compton, a municipal corporation, having applied to the Commission for permission to construct Laurel street at grade across the tracks of Southern Pacific Company, and a public hearing having

been held, at which all interested parties were represented; and it appearing to the Commission that this crossing will serve public necessity and convenience, and that no protection is needed at this time, but that it may be needed in the future.

It is hereby ordered that the city of Compton, Los Angeles County, California, be and the same hereby is granted permission to construct Laurel street at grade over the tracks of Southern Pacific Company, at the place and in the manner shown on the map accompanying the application. This crossing shall be constructed subject to the following conditions, and not otherwise:

(1) The crossing shall be constructed of a width not less than twenty-four (24) feet, with grades of approach not exceeding six (6) per cent. and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(2) The entire cost of constructing the crossing shall be borne by applicant.

(3) The cost of maintaining the crossing thereafter in good and first-class condition shall be borne by the applicant up to within two (2) feet of the rails of Southern Pacific Company. The cost of maintaining the crossing thereafter between the rails and to two (2) feet outside thereof shall be borne by Southern Pacific Company.

(4) The Commission reserves the right to make such further orders relative to the location, operation, maintenance and protection of this crossing as to it may seem right and proper, and it further reserves the right to make the division of expense of such crossing protection as it may order, in such manner as to it may appear to be just and equitable.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of April, 1915.

DECISION No. 2311.

IN THE MATTER OF THE APPLICATION OF GEORGE A. OGDEN FOR
AN ORDER AUTHORIZING AN INCREASE IN RATES FOR WARE-
HOUSE SERVICE.

Application No. 1507.

Decided April 20, 1915.

Applicant, operating several hay and grain warehouses in the city of Woodland, charges at present for the storage of grain 50 cents per ton per season and 20 cents per ton for loading, and for hay, \$1.00 per ton per season and 25 cents per ton for loading. He contends that the grain rates are noncompensa-

tory and applies for permission to increase the grain rate to \$1.00 per ton per season, this rate to include loading, resacking, etc.; and it appearing that in line with the superior service rendered by applicant such increase is justified, application granted.

Chas. W. Thomas, for Applicant.

Rudolph Volmer and *T. C. Fricdlander*, for San Francisco Grain Trade Association.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

This is an application by George A. Ogden, a public warehouseman of Woodland, California, to make certain alterations in the present method of assessing charges for resacking grain, and also to increase the existing storage rate from 70 cents per ton per season, including loading, to \$1.00 per ton per season, under which re-sacking, overhauling and other customary warehouse service will be afforded.

Rates filed by applicant with the Railroad Commission on August 12, 1912, are as follows:

| | |
|-----------------------|-----------------------------|
| Storage of grain----- | 50 cents per ton per season |
| Loading of grain----- | 20 cents per ton |
| Storage of hay----- | \$1.00 per ton per season |
| Loading of hay----- | 25 cents per ton |

The storage season for grain begins June 1st and ends May 31st of the following year. A few warehousemen operating in the same vicinity divide the storage season into two or three periods, giving patrons the advantage of a lower rate in cases where delivery is taken prior to October 1st; applicant, however, adheres to the rule of the majority and makes one flat charge for the entire season, basing this practice upon the alleged extremely low rate now in effect. Rates proposed are as follows: Storage of grain, \$1.00 per ton per season.

This flat charge, if authorized, is intended by applicant to cover all necessary incidental handling, such as weighing, delivery into warehouse, piling, re-sacking, or putting into condition for shipment, and loading on cars. No request has been made for authority to alter present rates for the storage of hay, nor was any evidence presented to show that charges now assessed for this commodity are in any manner unsatisfactory. Other farm products in small quantities have been stored with applicant from time to time, and it is his purpose to collect rates for these commodities upon the same basis as may be authorized by the Commission for the storage of grain. The amounts heretofore realized from this source have been insignificant and do not appear in the financial statement submitted with the application. A quantity of construction material belonging to the Yolo Water and Power Company has been on storage for several months, at a flat rate of \$15.00 per month. There is no reason for assuming that this class

of storage will again be offered. This item has likewise been omitted from the applicant's financial statement.

Applicant's four warehouses are all favorably located on spur tracks adjacent to the Southern Pacific Railroad station at Woodland, and occupy, all told, including the whole of each lot, somewhat more than two acres of land. The total floor space available in the two grain warehouses is about 27,000 square feet; the hay warehouses have a combined floor space of 18,500 square feet. Walls range in height from 16 to 24 feet, and each of the four houses is equally adapted to the storage of hay or grain. One of the hay warehouses is comparatively new and has a corrugated iron roof; the other structures are much older and a proper upkeep will mean a considerable annual outlay.

In his valuation of this property applicant has furnished the following figures with reference to buildings and real estate necessary and useful for the storage of grain:

| | Real estate | Buildings | Total |
|----------------------|-------------|------------|-------------|
| Warehouse No. 1----- | \$3,000 00 | \$4,750 00 | \$7,750 00 |
| Warehouse No. 4----- | 2,500 00 | 3,800 00 | 6,300 00 |
| Total ----- | | | \$14,050 00 |

To these values were later added \$725.00 for equipment and utensils required in the handling of grain. In the operation of these two grain warehouses statements have been presented showing a total loss of \$3,906.44 for the four years ending December 31, 1914. These statements, however, were corrected so as to reduce this amount to \$2,302.35, or an average annual loss of \$575.58 from 1911 to 1914, inclusive. Accurate data showing the result of the operation of applicant's warehouse properties as a whole was not available for the years prior to 1914; however, the receipts for hay storage based upon weights set out in tonnage book—2,578.525 pounds—at \$1.25 per ton, amount to \$1,611.25, or .087 per square foot of the 18,500 square feet available for this commodity. This is considerably less per square foot than was realized on grain storage for the same year. It, therefore, appears that an adjustment could not be brought about by reducing the rate for hay.

As already stated, warehouseman has placed a more or less arbitrary value of \$14,050.00 on that portion of his property devoted to the storage of grain. From a capacity basis this would bring the present value of the hay warehouses to \$7,000.00, or a total present value of \$21,050.00 for all real estate; and while these figures are not the result of expert valuations, there was no testimony offered at the hearing tending to controvert applicant's estimate. The original cost to applicant of all buildings and lands used for warehouse purposes, as evidenced by notes, mortgages, etc., appears to have been \$13,000.00, to

which has been added one new hay warehouse costing \$3,300.00, a total original outlay of \$16,300.00. Interest at 7 per cent on \$16,300.00 equals \$1,141.00, which is slightly less than interest applicant pays bank for money borrowed on warehouse properties. Although the season of 1914 could not be considered a fair year, for the reason that a bumper crop was offered for storage, yet applicant could show a profit for this year of but \$335.55 on all grain handled.

In the application it is claimed that the cost of conducting a warehouse business has greatly increased within the last few years, the chief item of such additional expense being the prices paid for labor. Some evidence was introduced to establish this contention. Prior to 1914 applicant could employ one first class piler at \$4.00 per day, now he is compelled to employ two men for the same work at \$3.00 per day each. Other labor could in former years be had at \$2.50 per day, while the present rate is \$3.00. As a further justification for establishing a slightly wider margin of profit for warehouseman, it was in evidence that the grain acreage in the vicinity of Woodland is gradually diminishing or changing to other crops of less value when viewed from warehouseman's standpoint.

Although the usual general publicity was given regarding the hearing in this application, and notwithstanding the fact that each patron of the warehouses concerned had personal notice that applicant had asked for an increase in his storage rates, and that such patron had the right to be present and be heard in the matter, not a farmer or producer considered it of sufficient moment to be on hand or to send in a protest, a plausible explanation of this failure on the part of those most vitally interested being that each of his patrons recognized the justice of applicant's request. Indeed, the testimony showed that the contemplated increase in his rates had been discussed by applicant and his patrons and the latter had signified their willingness to pay the rates prayed for, provided warehouseman would continue to give them the superior service inaugurated within the last year or so. With reference to this situation, it might be said that the Commission has consistently maintained that one of the primary considerations in dealing with a public utility is to insist upon adequate service to the public, and the public has not been found unwilling to pay a fair return upon the utility's investment, so long as the reasonable requirements of the patrons have been met. The order in this matter will be no exception to this policy, and such rates as may be authorized will be based upon the express understanding that a high quality of service will be rendered; and to that end, such improvements should be made from time to time as will adequately protect the property of patrons from the weather, weevil, rats, etc., and thus insure to the owner access to the best markets.

Furthermore, a delegation of San Francisco grain buyers present at the hearing in this application not only failed to protest against a raise in warehouse rates of applicant, but positively asserted that reasonable increases should be granted for the double purpose of properly compensating warehousemen and encouraging better service.

For the reasons set forth above, and the generally conceded fact that warehouse service in many localities in the Sacramento Valley is of an inferior quality because of the low rates charged, I find as a fact that applicant is entitled to a higher rate for the storage of grain, and that \$1.00 per ton per season is a just and reasonable rate for the service.

I recommend the following form of order:

ORDER.

George A. Ogden, proprietor of Woodland warehouses, having applied to the Railroad Commission for an order authorizing an increase in his warehouse rates for the storage of grain at Woodland, California, and a public hearing having been held upon said application and the Commission being fully advised in the premises,

It is hereby ordered that the application be granted, and that applicant be permitted to charge and collect the following rates:

| | |
|---|---------------------------|
| <i>Grain.</i> | |
| Storage | \$1.00 per ton per season |
| (Herein found to be just and reasonable.) | |
| <i>Hay.</i> | |
| Storage | \$1.00 per ton per season |
| Loading | 25 cents per ton |
| All other farm products..... | \$1.00 per ton per season |

It is further ordered that these rates shall include all service usually rendered in handling these commodities, such as receiving, weighing, storing, carrying in storage, necessary re-sacking or placing in proper condition for safe shipment, and loading out, and that storage season shall begin June 1st of any given year and include May 31st of the year following.

It is further ordered that a schedule embracing the above rates be promptly filed with the Railroad Commission and that the same be placed in effect as of June 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of April, 1915.

DECISION No. 2312.

IN THE MATTER OF THE APPLICATION OF MADISON WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN WAREHOUSE RATES.

Application No. 1519.

Decided April 20, 1915.

Applicant, contending that its present rates for grain storage do not produce an adequate return, applies for permission to establish a rate of \$1.00 per ton per season, this charge to include loading, resacking, piling, etc., and several of applicant's patrons appearing at the hearing and expressing themselves as being in favor of the increase, which will enable applicant to give efficient service, application granted.

Chas. W. Thomas, for Applicant.

Rudolph Volmer and *T. C. Freidlander*, for Grain Trade Association of San Francisco.

REPORT OF THE COMMISSION.

DEVLIN, Commissioner.

This is an application by Madison Warehouse Company of Madison, Yolo County, California, to increase its present storage rate on grain from 75 cents per ton per season, under which rate warehouseman assumes no responsibility for the expense of resacking, to \$1.00 per ton per season, which, if allowed, will place upon applicant the responsibility and expense of all necessary resacking or other overhauling preparatory to shipment. There has been some irregularity in assessing charges for warehouse service in the past, but rates filed with the Railroad Commission are as follows:

Grain.

| | |
|---|------------------|
| Storage, thirty days, first season----- | 50 cents per ton |
| Storage, first full season----- | 75 cents per ton |
| Storage, second full season----- | 75 cents per ton |
| Storage, third season (June and July only)----- | 50 cents per ton |

Wool.

| | |
|--------------------------|----------------|
| Storage, per season----- | \$1 00 per ton |
|--------------------------|----------------|

Almonds and Dried Fruit.

| | |
|--------------------------|------------------|
| Storage, per season----- | 50 cents per ton |
|--------------------------|------------------|

No charge for loading grain is shown in above schedule for the reason that this labor is done by an independent crew of loaders, who go from place to place to do this special service, the expense being borne by the party storing the grain. Applicant does not ask for an adjustment of any of the present rates except those affecting the storage of grain. The aggregate of all other commodities offered for storage is insignificant in quantity and irregular as to time, the receipts being almost negligible.

The rate which applicant desires to establish for the storage and incidental handling of grain is a flat charge of \$1.00 per ton per season, and, if authorized, will include the service of receiving, weighing, piling, carrying in storage, resacking or otherwise placing in condition for shipment and loading on cars. In support of this application, a statement has been submitted showing property valuations as follows:

| | |
|-----------------------------------|--------------------|
| Real estate ----- | \$11,000 00 |
| Warehouse structures ----- | 6,782 00 |
| Wells and pumps----- | 200 00 |
| Other structures and fencing----- | 469 25 |
| Total ----- | \$18,451 34 |
| Equipment (added later) ----- | 75 00 |
| Total ----- | \$18,526 34 |

There may be some doubt as to the accuracy of values placed upon the real estate upon which applicant's warehouses are located, and also as to the implied contention that the whole of this land is required in the operation of the warehouses. The Commission's representative, who visited the property and checked these values, estimates that not more than one half of the land upon which stands the so-called Madison warehouse is necessary or useful for warehouse purposes, at least one third of the tract (said to contain about five acres), being rented at the present time to other tenants. In view of the information furnished as to real estate values in the same locality, ranging in price from \$100.00 to \$400.00 per acre, the value placed upon this property, even with its favorable location for warehouse purposes, is not considered a fair estimate upon which returns in rates could be reasonably expected. However, in view of the showing made in the actual operation of these warehouses, it will not be necessary at the present time to announce a definite finding as to the value of these properties for the purpose of establishing just and reasonable rates.

The improvements, including warehouse structures, etc., after deducting for depreciation an amount representing from twenty-three to twenty-seven years' service upon an estimated life of sixty years, were assigned a value of \$7,451.34, and the evidence at the hearing supported this value. An examination of the financial statement submitted with this application, showing receipts and disbursements for the years 1910

to 1914, inclusive, reveals a total profit for the five years of \$10.76. The statement follows:

Statement of Earnings and Expenses from January 1, 1910, to December 31, 1914.

| | 1910 | 1911 | 1912 | 1913 | 1914 | Average per year |
|--|------------|------------|------------|------------|------------|---------------------|
| Earnings: | | | | | | |
| Storage ----- | \$2,329 31 | \$2,353 57 | \$1,180 54 | \$910 60 | \$4,022 30 | \$2,219 26 |
| Expenses: | | | | | | |
| Salary of manager | 1,200 00 | 1,200 00 | 1,200 00 | 1,200 00 | 1,200 00 | 1,200 00 |
| Labor: | | | | | | |
| Storing grain ---- | 661 55 | 446 61 | 214 16 | 226 24 | 803 25 | 470 36 |
| Interest ----- | 39 69 | 26 80 | 12 85 | 13 57 | 48 20 | 28 22 |
| Maintenance and repairs ----- | 40 38 | 8 25 | 9 30 | | 139 57 | 39 55 |
| Taxes: | | | | | | |
| County ----- | 69 12 | 95 31 | 64 50 | 47 95 | 62 84 | 67 91 |
| Franchise ----- | 10 00 | 10 00 | 10 00 | 10 00 | 10 00 | 10 00 |
| Corporation ----- | 15 00 | 15 00 | 15 00 | 15 00 | | 12 00 |
| Insurance ----- | 31 50 | 100 76 | 58 45 | 90 50 | 33 00 | 62 84 |
| Depreciation ----- | 202 40 | 202 40 | 202 40 | 202 40 | 202 40 | 202 40 |
| Stationery and sup- plies ----- | 105 12 | 16 25 | 33 94 | 9 65 | 376 51 | 108 29 |
| Incidentals, legal fees, etc. ----- | 9 75 | 1 00 | 11 00 | 5 50 | 7 50 | 6 95 |
| Totals ----- | \$2,384 51 | \$2,122 38 | \$1,831 60 | \$1,820 81 | \$2,883 27 | \$2,208 50 |

The only item in the above amounts which could be considered in any degree high is that of \$1,200.00 set apart as the annual salary of the manager. The business at the two houses is probably not sufficient to engage the constant attention of a superintendent, yet the uncertainty due to the nature of the business, coupled with the fact that applicant's warehouses are located some three miles apart, would perhaps make it unsafe to reduce the amount allowed for this purpose. The evidence showed that the president of the company, who is also the manager of the warehouses, gives almost the whole of his time to the warehouse business. The cost of labor, repairs and incidentals set out in the foregoing statement were transferred from the company's books, as were also the fixed charges for taxes, insurance, etc. As already noted, the depreciation is based upon an estimated life of sixty years for the improvements, which is perhaps too liberal, unless stricter attention is given to future repairs.

The territory from which applicant draws patronage has been circumscribed from year to year by the opening of other warehouses in the same vicinity; and this fact, added to the farming conditions which have transformed the once lucrative wheat storage to the less profitable storage of barley, as well as the increased acreage of crops not offered for storage, has tended further to reduce applicant's profits.

It should be noted in this connection that while applicant's warehouses have had considerable repairs for the year 1914, as is evidenced

by the operating statement shown above, it will be necessary to lay out a much larger amount in the near future in order properly to protect the grain of customers. Roofs, doors, floors, scales and scale houses will all need more or less attention, and the rates which may be authorized herein will contemplate such necessary improvements as will guarantee accuracy in weighing as well as proper protection and preservation of all stored products. The details of these improvements will for the present, however, be left to the judgment of warehouseman pending a more thorough inspection.

Although the usual publicity was given of the hearing to be held on this application, and each patron of the warehouses had personal notice of the proposed rate inquiry, not a single farmer or producer was present for the purpose of protesting, nor was there any other opposition to the establishment of rates prayed for. On the contrary, several witnesses testified that proper service could not be given for a rate less than \$1.00 per ton per season for the storage of grain in country warehouses. Rates authorized under this application will be based upon a contemplated high quality of service.

For the reasons foregoing, and the further generally conceded fact that the low warehouse charges assessed for the storage of grain in the vicinity wherein applicant operates are largely responsible for the inferior quality of the service rendered, I find, as a fact, that applicant is entitled to a higher rate for the storage of grain, and that \$1.00 per ton per season is a just and reasonable rate. I suggest the following form of order:

ORDER.

Madison Warehouse Company having applied to the Railroad Commission for an order authorizing an increase in warehouse rates for the storage of grain in its warehouses located at Madison and Esparto, respectively, and a hearing having been held upon said application and the Commission being fully advised in the premises,

It is hereby ordered that the application be granted, and that applicant be permitted to charge and collect for the storage of grain the rate herein found to be just and reasonable for the service, viz: \$1.00 per ton per season.

It is further ordered that the collection of this rate shall be conditioned upon the rendering of first class service, including receiving, weighing, piling, carrying in storage, resacking or placing in proper and safe condition for shipment, loading into cars, and any other service which it is customary for warehousemen similarly situated to give.

It is further ordered that a schedule embracing the above rate and condition be at once filed with the Railroad Commission and placed in effect as of June 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of April, 1915.

DECISION No. 2313.

IN THE MATTER OF THE APPLICATION OF FOOTHILL DITCH COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF CAPITAL STOCK AND PROMISSORY NOTES.

Application No. 1617.

Decided April 20, 1915.

Applicant authorized to issue 10,000 shares of its capital stock of the par value of \$1.00 per share and four promissory notes of the face value of \$2,500.00 each, such notes to be issued to Mrs. Rosa S. Spaulding in exchange for the ditch system now owned by applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

Foothill Ditch Company in this application requests authority to issue ten thousand (10,000) shares of its capital stock at the par value of one (\$1.00) dollar per share, and four (4) promissory notes of twenty-five hundred (\$2,500.00) dollars each, bearing interest at the rate of seven (7%) per cent per annum, and payable to Mrs. Rosa S. Spaulding. These notes are to become due one, two, three and four years after date. Applicant also asks for authority to issue a one-day promissory note to the First National Bank of Exeter in the sum of five thousand (\$5,000.00) dollars, bearing interest at the rate of seven (7%) per cent per annum.

The securities which Foothill Ditch Company herein asks authority to issue are to take the place of certain notes and stock previously issued without the consent of the Commission.

Previous to the filing of the application in this matter a hearing was held upon Application No. 1576—In the matter of the transfer of property from Rosa S. Spaulding to Foothill Ditch Company; and upon Application No. 1457—Application of Foothill Ditch Company for permission to increase its rates.

By stipulation the Commission was enabled to consider the evidence in these two proceedings in connection with this application, and reference is hereby made to the transcripts and exhibits therein. In view of the above-mentioned stipulation, applicant was not represented at the hearing in the present application. The evidence adduced places the present value of the property at twenty-seven thousand nine hundred fifty (\$27,950.00) dollars.

In regard to the ditch company's application to issue a one-day promissory note in the sum of five thousand (\$5,000.00) dollars to First National Bank of Exeter, I am of the opinion that no order is necessary, as this note is for a term of less than twelve months. As regards the other portions of the company's application, I shall recommend that they be granted.

I submit herewith the following form of order.

ORDER.

Foothill Ditch Company having made application for an order authorizing the issuance of nine thousand nine hundred ninety-seven (9,997) shares of its common capital stock to Merryman Fruit, Land and Lumber Company, and one share each to R. C. Merryman, John A. Van Cleve, Jr., and Louise Van Cleve, as officers and directors of Foothill Ditch Company, at the par value of one (\$1.00) dollar per share, and four (4) promissory notes of twenty-five hundred (\$2,500.00) dollars each, and of one promissory note in the sum of five thousand dollars, as hereinbefore set forth, and a public hearing having been held, and the Commission being fully apprised in the premises,

It is hereby ordered that the Foothill Ditch Company be and it is hereby granted authority to issue nine thousand nine hundred and ninety-seven (9,997) shares of its capital stock to Merryman Fruit, Land and Lumber Company, and one share each to R. C. Merryman, John A. Van Cleve, Jr., and Louise Van Cleve, as officers and directors of Foothill Ditch Company, at the par value of one dollar per share.

It is further ordered that Foothill Ditch Company be and it is hereby granted authority to issue four promissory notes in the sum of \$2,500.00 each to Mrs. Rosa S. Spaulding, said notes to bear interest at not to exceed seven per cent per annum, and to fall due, one, two, three and four years after date, respectively.

It is further ordered that the notes and stock herein authorized to be issued shall be issued in substitution for certain stock and notes heretofore illegally issued by Foothill Ditch Company without the consent of this Commission.

Before any of the stock or notes herein authorized shall be issued, the stock and notes heretofore illegally issued shall be returned to applicant's treasury and canceled.

Within thirty (30) days after the issuance of any of the stock or notes herein authorized, Foothill Ditch Company shall make report of such fact to the Commission.

The authority herein granted to Foothill Ditch Company to issue notes and stock shall apply only to such notes and stock as are issued on or before October 20, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of April, 1915.

DECISION No. 2314.

IN THE MATTER OF THE APPLICATION OF CITY OF GLENDALE AND THE VERDUGO SPRINGS WATER COMPANY FOR AN ORDER AUTHORIZING THE VERDUGO SPRINGS WATER COMPANY TO SELL ITS PUBLIC UTILITY PROPERTY TO THE CITY OF GLENDALE.

Application No. 1631.

Decided April 20, 1915.

Verdugo Springs Water Company authorized to transfer its water system in the city of Glendale to said city for the sum of \$52,599.80.

REPORT OF THE COMMISSION.

This Commission having in its order made on May 18, 1914, in Application No. 936—In the matter of the petition of the city of Glendale for the Railroad Commission to fix valuations of certain water systems in said city—fixed a value of fifty thousand two hundred and ninety-two (\$50,292.00) dollars on the following described property of Verdugo Springs Water Company:

That portion of the Rancho San Rafael described as follows, to wit: Beginning at a point which is reached by three courses, namely, north 70 degrees 52 minutes 45 seconds, west 14.50 feet from the most northerly corner of lot 1 of tract number 840, as per map recorded in Book 16, page 112 of Maps. Records of Los Angeles County, California (said course being measured along the westerly prolongation of the northerly line of said lot); north 33 degrees 13 minutes 5 seconds, east 1,242.17 feet, and south 58 degrees 55 minutes 10 seconds, east 11.76 feet to the true point of beginning; thence south 58 degrees 55 minutes 10 seconds, east 216.42 feet. (This last named course for a distance of 127.38 feet runs along the northeasterly boundary of that certain tract of land containing .53 acres, recorded August 9, 1901, in Book 1466, page 310 of Deeds, Records of Los Angeles County, California; the most northerly corner of said tract of land lying south 58 degrees 55 minutes 10 seconds, east 16.46 feet from the true point of beginning of this description); thence north 33 degrees 13 minutes 5 seconds, east 182.91 feet; thence north 58 degrees 55 minutes 10 seconds, west 192.41 feet to an intersection with the curve concave easterly having a radius of 1,190 feet, a radial line from said point of intersection having a bearing of south 44 degrees 52 minutes 3 seconds east; thence southwesterly along said curve 185.57 feet to the point of beginning, containing .869 acres.

Storage.

One reservoir, 7 feet deep, 100 feet in diameter, located on the above described parcel of land.

Distribution System.

250 lineal feet of $\frac{3}{4}$ -inch standard screw pipe.
 14,538 lineal feet of 2-inch standard screw pipe.
 45,595 lineal feet of 4-inch riveted steel and iron pipe.
 3,130 lineal feet of 5-inch riveted steel and iron pipe.
 9,690 lineal feet of 6-inch riveted steel and iron pipe.
 1,010 lineal feet of $6\frac{1}{2}$ -inch riveted steel and iron pipe.
 3,840 lineal feet of 8-inch riveted steel and iron pipe.
 482 lineal feet of 10-inch riveted steel and iron pipe.

All valves and special fittings now a part of the above described system.
 620 service connections.

620 meters, $\frac{3}{4}$ by $\frac{3}{4}$ inch, with boxes.

Miscellaneous.

116 shares of stock of the Verdugo Canyon Water Company.
666/10,000 of the stream flow in Verdugo Canyon.

All other property owned by the Verdugo Springs Water Company in the city of Glendale on February 1, 1914, and used and useful in the conduct of its water business.

And Verdugo Springs Water Company having since expended for betterments to the said property the sum of two thousand three hundred and seven dollars and eighty cents (\$2,307.80), and the city of Glendale and the Verdugo Springs Water Company having jointly filed the present application that authority be granted to Verdugo Springs Water Company to sell to the city of Glendale all of the above described property together with the betterments for the sum of fifty-two thousand five hundred ninety-nine and eighty one-hundredths (\$52,599.80) dollars, and the Commission being of the opinion that this application should be granted,

It is hereby ordered that the application herein be and the same is hereby granted.

Dated at San Francisco, California, this 21st day of April, 1915.

DECISION No. 2315.

PACIFIC COAST POTTERY AND TERRA COTTA COMPANY
vs.
SOUTHERN PACIFIC COMPANY.

Case No. 592.

Decided April 20, 1915.

Complainant, operating a pottery works in the city of San Jose, attacks the rate of \$1.50 per ton maintained by defendant on clay in carload lots from Ione, Clarksona, Yaru, Carbondale, Lincoln, Clayton and Valley Springs to San Jose, contending that a rate of 70 cents per ton is reasonable for such service and also asks reparation in the sum of \$2,958.44 on past shipments.

Held, That though defendant, subsequent to the filing of this complaint, voluntarily reduced its rate on clay to San Jose from \$1.50 to \$1.00, there is at present in effect a lower rate to Oakland, San Francisco and South San Francisco, all of which are a greater distance from clay pits than San Jose, and though complainant's contention that clay should be classed as sand and given a 70 cents per ton rate can not be considered, a rate of 85 cents per ton found to be a fair and reasonable rate on clay from points mentioned above to San Jose, which rate defendant is directed to establish within twenty days. Complaint in all other respects dismissed.

Alfred J. Harwood, for Complainant.

Geo. D. Squires, for Defendant.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

The complainant in this case is a corporation engaged in the manufacture of pottery and clay products and maintains a factory for that

purpose at San Jose. In its complaint filed May 4, 1914, it alleges that the carload rate of \$1.50 per ton maintained and charged by the defendant for the transportation of clay in carloads to San Jose from Ione, Clarksona, Yaru, Carbondale, Lincoln, Clayton and Valley Springs, from which points it obtains its clay for manufacturing purposes, is unjust, unreasonable, discriminatory and excessive and in violation of the Public Utilities Act. Since the complaint in this case was filed defendant has reduced its carload rate on clay from the points named to San Jose from \$1.50 per ton to \$1.00 per ton of 2,000 pounds, but inasmuch as the complaint alleges that any rate in excess of 70 cents per ton of 2,000 pounds is unjust, unreasonable and discriminatory the pleadings are sufficient to also put the reduced rate in issue.

The Commission is asked to establish a rate of 70 cents per ton as a just, reasonable and nondiscriminatory rate for this service and to award reparation on past shipments in the sum of \$2,958.44 with interest thereon at the rate of 7 per cent per annum from the date of its collection.

In its answer the defendant denies the material allegations of the complaint and questions the jurisdiction of the Commission to award the reparation sought.

The complainant contends that the rate complained of is shown to be unreasonable when compared with the rate of 70 cents per ton on sand in carloads from Ione to San Jose voluntarily established and maintained by defendant.

The complainant further contends that its products are marketed in competition with the products of the factories located at South San Francisco, East Oakland and Alameda and that the defendant has discriminated against it in maintaining a higher rate on clay to San Jose than to the points at which its competitors' factories are located and that it has for a long time protested against the continuance of the alleged unjust and discriminatory rates to San Jose, but that such protests have been unavailing. In this connection complainant shows that although the distance from Ione, Yaru and Valley Springs is less to San Jose than to San Francisco that the defendant maintains a higher rate on clay to the former than to the latter destination. It is also pointed out in this connection that whereas the defendant has adjusted its rate on sand between these points in relation to the distance, the rate thereon to San Jose from Ione, Yaru and Valley Springs being made 5 cents per ton less than to San Francisco, that San Jose has not been given a similar advantage in the clay rates.

The following statement exhibits the carload rates which have been in effect since May 7, 1910, on clay from the various shipping points to points at which clay products factories are located and the dates on which the different rates were made effective, together with the mileages between the points.

CLAY—Carload rates in cents per ton of 2,000 pounds.

| | C. R. C. No. 1857, shortline mileages | C. R. C. No. 84, effective May 7, 1919 | C. R. C. No. 1632, effective Nov. 19, 1913 | C. R. C. No. 1632, effective May 4, 1914 | Remarks |
|--|--|--|--|--|--|
| To South San Francisco from— | | | | | |
| Ione | 143.4 | | | | Min. weight under rate of \$1.25, 40,000 lbs.; under rate of 85¢, 60,000 lbs. |
| Clarksona | 139.8 | | | | |
| Yaru | 137.6 | | | | |
| Carbondale | 136.9 | | | | |
| Lincoln | 126.3 | \$1 25 | \$0 85 | \$0 85 | |
| Clayton | 127.6 | | | | |
| Ahart | 127.9 | | | | |
| Helisma | 131.0 | | | | |
| Valley Springs | 134.8 | | | | |
| To San Francisco from— | | | | | |
| Ione | 138.9 | | | | Min. weight under rate of \$1.25, 40,000 lbs.; under rate of 85¢, 60,000 lbs. |
| Clarksona | 135.3 | | | | |
| Yaru | 133.1 | | | | |
| Carbondale | 132.4 | | | | |
| Lincoln | 117.0 | \$1 25 | \$0 85 | \$0 85 | |
| Clayton | 118.3 | | | | |
| Ahart | 118.6 | | | | |
| Helisma | 126.5 | | | | |
| Valley Springs | 130.3 | | | | |
| To East Oakland from— | | | | | |
| Ione | 130.6 | | | | Min. weight under rate of \$1.25, 40,000 lbs.; under rate of 85¢, 60,000 lbs. |
| Clarksona | 127.0 | | | | |
| Yaru | 124.8 | | | | |
| Carbondale | 124.1 | | | | |
| Lincoln | 115.5 | \$1 25 | \$0 85 | \$0 85 | |
| Clayton | 116.8 | | | | |
| Ahart | 117.1 | | | | |
| Helisma | 118.2 | | | | |
| Valley Springs | 122.0 | | | | |
| To Alameda (Pacific Ave.) from— | | | | | |
| Ione | 134.7 | | | | Min. weight under rate of \$1.25, 40,000 lbs.; under rate of 85¢, 60,000 lbs. |
| Clarksona | 131.1 | | | | |
| Yaru | 128.9 | | | | |
| Carbondale | 128.2 | | | | |
| Lincoln | 116.4 | \$1 25 | \$0 85 | \$0 85 | |
| Clayton | 117.7 | | | | |
| Ahart | 118.0 | | | | |
| Helisma | 122.3 | | | | |
| Valley Springs | 126.1 | | | | |
| To San Jose from— | | | | | |
| Ione | 127.1 | | | | Min. weight 40,000 lbs. |
| Clarksona | 123.5 | | | | |
| Yaru | 121.3 | | | | |
| Carbondale | 120.6 | | | | |
| Lincoln | 149.8 | \$1 50 | \$1 50 | \$1 00 | |
| Clayton | 151.1 | | | | |
| Ahart | 151.4 | | | | |
| Helisma | 114.7 | | | | |
| Valley Springs | 118.5 | | | | |

It was agreed by the parties to this proceeding that the entire record in Case No. 385, *San Francisco Chamber of Commerce vs. Southern Pacific Company*, 3 C. R. C. Report No. 848, should be considered in determining the issues in this case. That case involved the reasonableness of the defendant's carload rate on clay from Ione, Clarksona, Yaru, Carbondale, Lincoln, Clayton and Valley Springs to South San Francisco, East Oakland and Alameda. In that case, as in this pro-

ceeding, it was contended that the carload rates on clay should not exceed the carload rates on sand between the same points and the Commission therein held that considering all the circumstances and conditions surrounding the establishment of the rates on sand and clay that a reasonable difference in the rates on those commodities was justified and I am not convinced from the record before me in this case or from a review of the former record that this conclusion is erroneous or should now be changed.

It will be noted from the statement hereinbefore set out that the distances are somewhat less from points on the Ione and Valley Springs branches than from Lincoln, Clayton and Ahart to San Jose. However, the service from the latter points of origin involves a main line haul only, whereas from points on the Ione and Valley Springs branches a branch line service is involved which tends to a certain extent to offset the advantage in mileage from the latter points and considering this adjustment alone there appears sufficient justification for the maintenance of the same rates from all the points of origin to San Jose. While the mileages from Lincoln, Clayton and Ahart are shorter to San Francisco, South San Francisco, East Oakland and Alameda than to San Jose via the short line, on which mileages the rates were originally constructed and there might properly be some difference in the rates to the different destinations, the mileages from points on the Ione and Valley Springs branches are in each case shorter to San Jose than the mileage to San Francisco, South San Francisco, East Oakland and Alameda; nevertheless the defendant has in the past established and now maintains lower rates from such points of origin to the latter destinations than to San Jose. Regarding this adjustment, which the complainant contends is discriminatory, the defendant states that it was induced by clay shippers, after years of constant pressure, to establish the same rates from points on the Ione branch to the San Francisco Bay points named as it maintained from Lincoln to the same points notwithstanding that the officials of the defendant believed that in view of the longer distance and the branch line service involved, the rate from points on the Ione branch should be somewhat higher than the rates from Lincoln to the same points. Manifestly, however, such a reason does not justify the giving of the lower rate to the San Francisco Bay points than to San Jose, to which point the mileage is materially shorter and where there appears to be no material difference in the service rendered. Defendant offered no justification for the establishment of lower rates from points on the Valley Springs branch to San Francisco Bay points than to San Jose. If, as the defendant contends, the shorter distance from Lincoln, Clayton and Ahart to San Francisco Bay points justifies a lower rate to those points than to San Jose it would seem that for the same reason the rates from points

on the Ione and Valley Springs branches to San Jose should be lower than the rates to San Francisco Bay points. The clay shipped from the various clay producing points to either San Jose or San Francisco Bay points moves to a large extent over the same route, that is, via Stockton and Pleasanton and via that route San Jose has a material advantage in mileage from all shipping points and the service to the various destinations via that route is not materially dissimilar.

Considering all of the circumstances it is my opinion that the distances and service from all the producing points to San Francisco, South San Francisco, East Oakland, Alameda and San Jose should be considered the same and the rates from and to those points should also be the same. It is also my opinion that the defendant has discriminated against complainant in the past by maintaining from points on the Ione and Valley Springs branches to San Francisco, South San Francisco, East Oakland and Alameda, at which points are located factories which manufacture products similar to those manufactured by the complainant and which are sold in competition with the complainant's wares, lower rates on clay in carloads than it contemporaneously maintains from points on these branches to San Jose, the distances to the latter points being less and the service not being any more burdensome.

From the whole record I am of the opinion and find as a fact that the defendant's rate on clay in carloads from Ione, Clarksona, Yaru, Carbondale, Lincoln, Ahart, Clayton and Valley Springs to San Jose is unjust, unreasonable and excessive. I also find as a fact that the defendant has unduly discriminated in maintaining from points on its Ione and Valley Springs branches to San Jose a higher rate on clay in carloads than it contemporaneously maintained from the same points to East Oakland, Alameda and South San Francisco. I also find as a fact that a just, reasonable and nondiscriminatory rate for the transportation of clay in carloads of 60,000 pounds, or more, from Ione, Clarksona, Yaru, Carbondale, Lincoln, Clayton and Valley Springs to San Jose is 85 cents per ton of 2,000 pounds. The pleadings do not put in issue the rate on clay from Ahart to San Jose, therefore as to that rate no order can be made, but it is recommended that the rate of 85 cents per ton on clay in carloads of 60,000 pounds be also established therefrom to San Jose.

I recommend the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and a full investigation of the matters and things involved having been had and being fully apprised in the premises, the Commission finds as a fact that defendant's rate on clay in carloads from Ione, Yaru, Clarksona, Carbondale, Lincoln and Valley Springs to San Jose is

unjust, unreasonable and excessive and that the defendant has unduly discriminated in maintaining from points on its Ione and Valley Springs branches to San Jose a higher rate on clay in carloads than it contemporaneously maintains from the same points to East Oakland, Alameda and South San Francisco, and further, that a just, reasonable and nondiscriminatory rate for the transportation of clay in carloads of 60,000 pounds or more from Ione, Clarksona, Yaru, Carbondale, Lincoln, Clayton and Valley Springs to San Jose is 85 cents per ton of 2,000 pounds.

It is hereby ordered that the Southern Pacific Company publish and file with this Commission to become effective within twenty days from the date of this order a rate of 85 cents per ton of 2,000 pounds on clay in carload quantities of 60,000 pounds or more from Ione, Clarksona, Yaru, Carbondale, Lincoln, Clayton and Valley Springs to San Jose.

It is further ordered that in all other respects the complaint herein be dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of April, 1915.

DECISION No. 2316.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR PERMISSION TO ABANDON AGENCY AT TRAVER STATION ON SAN JOAQUIN DIVISION.

Application No. 1589.

Decided April 21, 1915.

Applicant herein having been heretofore directed to maintain an agent at Traver station on its San Joaquin division and to compile data for a period of one year showing movements through and receipts of such agency, now applies, after a period of eighteen months, to discontinue same, and the evidence warranting such discontinuance, application granted, provided that the agency shall be maintained during the period of construction of the state highway between Kingsburg and Goshen; and applicant shall further maintain, for a period of one year thereafter, a caretaker who shall keep open the waiting room and assist in the handling of baggage and less carload freight.

Geo. D. Squires, for Applicant.

Leroy J. Smith, for Protestants.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application of Southern Pacific Company for permission to abandon agency at Traver on its San Joaquin division, located five

and seven tenths miles south of Kingsburg, and seven and eight tenths miles north of Goshen junction, until such time as said station shall have developed sufficient traffic to justify the re-establishment of an agency. A public hearing was held at Traver on April 5, 1915, at which time all interested parties were represented.

In Case No. 425, *A. M. Buchanan vs. Southern Pacific Company* (see Commission's Decision 983), being a complaint requesting the establishment of an agency station at Traver, this Commission issued its order under date October 2, 1913, as follows:

"It is hereby ordered that the Southern Pacific Company install an agent at its station called Traver on its San Joaquin division, and maintain said agent at that point until the further order of this Commission; and

It is further ordered that the Southern Pacific Company shall keep a complete and accurate account for the period of one year of the business transacted at said station of Traver and the additional expense incurred because of the maintenance of an agent there; also complete data of the number of passengers traveling to and from that point, and submit the same to this Commission."

The applicant, Southern Pacific Company, having established an agent at its station of Traver, maintained said agent for a period of fifteen months, and having kept the record required by this Commission now seeks permission to abandon the agency heretofore established at Traver, alleging that there is very little necessity for its continuance and that the revenue derived does not justify the expense of maintaining such agency.

At the hearing of this application the applicant introduced several exhibits showing the revenue derived from passenger and freight business, the number of passengers arriving at and departing from the station, the number of pieces of baggage handled and other data, all in compliance with the order of the Commission that complete data should be kept for a period of one year. These statistics are of interest in that they indicate the volume of business handled and also make a comparison with previous years. The business handled during the calendar year of 1914 shows the following result:

Freight:

| | |
|--|---------|
| Car loads forwarded..... | 15 |
| Car loads received..... | 5 |
| Less than car load forwarded (tons)..... | 25 |
| Less than car load received (tons)..... | 215 |
| Total less than car load handled (tons)..... | 240 |
| <hr/> | |
| Total freight charges (even dollars) | \$1,373 |
| Number waybills made..... | 139 |
| Number freight bills made..... | 831 |

Passenger:

Number of outbound passengers ----- 1,657
 Outbound passenger revenue ----- 1,523

Number pieces baggage received ----- 233
 Number pieces baggage forwarded ----- 213

Total pieces baggage handled ----- 446

A comparison of the business handled in the year 1912, at which time no agent was maintained at Traver, with the business handled in 1914, during which time an agent was employed in compliance with the Commission's order in Case No. 425, shows the following data:

| | Number | | | Revenue | | |
|------------------------------|---------|----------|-------|------------|----------|------------|
| | Inbound | Outbound | Total | Inbound | Outbound | Total |
| <i>Passenger:</i> | | | | | | |
| 1912 ----- | 2,000 | 1,627 | 3,627 | \$1,619 00 | \$825 00 | \$2,444 00 |
| 1914 ----- | 1,269 | 1,657 | 2,926 | 1,162 00 | 1,523 00 | 2,685 00 |
| Increase ----- | | 30 | | | 698 00 | 241 00 |
| Decrease ----- | 731 | | 701 | 457 00 | | |
| <i>Freight:</i> | | | | | | |
| Carloads— | | | | | | |
| 1912 ----- | 15 | 12 | 27 | | | |
| 1914 ----- | 5 | 15 | 20 | | | |
| Increase ----- | | 3 | | | | |
| Decrease ----- | 10 | | 7 | | | |
| Less than carload (in tons)— | | | | | | |
| 1912 ----- | 205 | 23 | 228 | *1,411 00 | *427 00 | *1,838 00 |
| 1914 ----- | 215 | 25 | 240 | *861 00 | *512 00 | *1,373 00 |
| Increase ----- | 10 | 2 | 12 | | *85 00 | |
| Decrease ----- | | | | *550 00 | | *465 00 |

*Includes carloads.

A comparison of the business over a period of years shows the following results:

Comparative Freight Business.

| Calendar year | Tons forwarded | | Tons received | | Freight revenue | | |
|---------------|----------------|--------------|---------------|--------------|-----------------|------------|------------|
| | Carload | Less carload | Carload | Less carload | Forwarded | Received | Total |
| 1901 ----- | 1,488 | 152 | 824 | 357 | \$5,744 97 | \$2,792 97 | \$8,537 94 |
| 1902 ----- | 1,437 | 242 | 591 | 470 | 4,924 75 | 3,162 93 | 8,087 68 |
| 1903 ----- | 251 | 158 | 629 | 403 | 3,609 93 | 4,259 48 | 7,959 41 |
| 1904 ----- | 4,274 | 78 | 581 | 370 | 5,435 15 | 3,083 73 | 8,518 88 |
| 1905 ----- | 491 | 95 | 834 | 425 | 1,503 86 | 4,869 34 | 6,373 20 |
| 1906 ----- | 334 | 66 | 211 | 393 | 1,601 50 | 2,277 69 | 3,879 19 |
| 1907 ----- | 249 | 92 | 306 | 362 | 1,203 96 | 3,302 72 | 4,506 68 |
| 1908 ----- | 126 | 59 | 115 | 392 | 1,604 92 | 2,859 27 | 4,464 19 |
| 1912 ----- | 12 cars | 23 | 15 cars | 205 | 427 00 | 1,411 00 | 1,838 00 |
| 1914 ----- | 178 | 25 | 47 | 215 | 512 00 | 861 00 | 1,373 00 |
| | 15 cars | | 5 cars | | | | |

Comparative Passenger Business.

| Calendar year | Local | | Interline | |
|---------------|--------|------------|-----------|-----------|
| | Number | Revenue | Number | Revenue |
| 1901 ----- | 2,136 | \$2,307 15 | 5 | *\$157 30 |
| 1902 ----- | 2,226 | 2,813 70 | 4 | 9 00 |
| 1903 ----- | 2,472 | 2,725 47 | 5 | *100 65 |
| 1904 ----- | 2,384 | 2,540 50 | 1 | 1 80 |
| 1905 ----- | 2,204 | 2,515 27 | 11 | *550 80 |
| 1906 ----- | 2,249 | 2,617 25 | 6 | *186 00 |
| 1907 ----- | 2,326 | 3,385 87 | 4 | *217 65 |
| 1908 ----- | 2,622 | 3,123 50 | 5 | *189 75 |
| 1912 ----- | 1,627 | 825 31 | | |
| 1914 ----- | 1,651 | 1,476 00 | 6 | 47 03 |

NOTE—Interline revenue during years marked (*) consisted of entire revenue received. Years unmarked give the portion of revenue accruing to Southern Pacific Company for their portion of the distance traveled by passengers

From the above statistics showing the amount of business handled at Traver it is apparent that the volume of business does not justify the expense to which the Southern Pacific Company has been obligated in the maintenance of an agent at this station. This expense is made up of the salary of the agent, which is \$80.00 per month, agent's overtime averaging from \$12.00 to \$13.00 per month and the expense of fuel, water, lights, ice, etc.; the total expense of conducting this station by the Southern Pacific Company being \$1,231.28 for the calendar year of 1914 against a total revenue of \$2,886.03, which indicates that 42.66 per cent of the revenue derived at this station has been expended in the maintenance of an agent during the calendar year of 1914. It was shown by the complainant that the Southern Pacific Company by reason of an agreement existing with their telegraph operators are obligated to pay the amount of \$80.00 per month as a minimum salary at any point where an agent is employed who may be required to handle telegraph business and train orders for the company. At Traver the agent receives in addition to his regular salary of \$80.00 per month, overtime amounting to \$12.00 or \$13.00 per month, commissions from Wells Fargo & Company Express, free rent in the station building, water, fuel, lights and during the summer is furnished ice by the company. The duties of the agency are not exacting, as during the year 1914 the average number of freight bills made daily was 2.3, the average number of waybills made was 4; the average weight of less than carload freight handled was seven tenths of a ton; the average number of passengers leaving Traver daily to whom tickets would be sold was 4.5 and the average number of pieces of baggage handled both inbound and outbound daily was 1.2. In view of these figures it would appear that the full efficiency of the services of the agent was not being obtained by the applicant, Southern Pacific Company, although they were compelled by reason

of the agreement above noted to pay a minimum of \$80.00 per month for the services of an agent at this station.

Since the original establishment of the station of Traver the construction of the line of the Atchison, Topeka and Santa Fe Railway and of the Porterville branch of the Southern Pacific Company have furnished facilities for the handling of freight and passenger traffic which would have been tributary to Traver, thereby reducing the business that would otherwise have been handled from this station.

The protestants in this case presented evidence at the hearing which indicated that in numerous instances shipments intended for Traver had been forwarded to Kingsburg by reason of consignors being advised by forwarding agencies that Traver was a non-agency station, and as such requiring prepayment of freight and release of responsibility on the part of the carrier after freight was delivered from the trains at Traver. This fact caused inconvenience and expense to the patrons of the Southern Pacific Company at Traver in that when shipments were forwarded to Kingsburg extra time and expense were necessary to get them to their ultimate destination by teaming, and it appears that during a portion of the winter season that the roads between Traver and Kingsburg are in bad condition. It would appear that the methods of the applicant, Southern Pacific Company, in advising their various agencies as to the existence of agents at their stations, or of the opening of an agency at a point where previously no agent was established, were susceptible of considerable improvement, the evidence revealing that although Traver was re-established as an agency on November 1, 1913, information as to such fact was not known to other agencies many months later. In the case of smaller agencies, limited as to force and facilities, who might have occasion but infrequently to make shipments to Traver or stations of like importance some latitude could properly be allowed, but when lack of information exists at a station of the importance of Los Angeles and a shipper makes two efforts to have his freight billed to the point at which he desires delivery and is then obliged to take delivery at a station 5.8 miles from its proper destination, incurring the expense and inconvenience of team haul, the system of advice to agents would appear to be defective and not of a character that was securing effective results and proper information for the government of the freight shippers who are patrons of the company.

The protestants also introduced evidence as to the amount of passenger business that was handled at other adjacent stations by reason of Traver not being a stop for the principal trains, and indicated that if certain of the trains were caused to stop for the purpose of taking on and discharging passengers that the passenger earnings at this station would show a material increase. In view of the fact that the

trains which are desired to make a stop at Traver are on fast schedules and are serving only the larger stations, if these trains were stopped on flag at Traver all other communities of similar size would demand like stops and the character of these trains and their schedules would be interfered with, resulting in immediate complaints from the larger communities that fast schedules were denied them.

The protestants also directed the attention of the Commission to the inconvenience that would result to consignees by reason of less than carload shipments arriving and having no agent to care for same or check condition as to damage or shortage. It appears, however, that during four and one half months of the calendar year 1914, out of a total of 373 shipments, aggregating 207,412 pounds, that 212 shipments, aggregating 139,188 pounds, were consigned to the two stores at Traver, leaving 161 shipments, amounting to 68,224 pounds, for other consignees. As some of these consignees live at a considerable distance from the station it would appear that some protection should be afforded their incoming shipments by the applicant, Southern Pacific Company.

The evidence submitted at the hearing of this case indicates that the order of the Commission in Case No. 425, above referred to, has not resulted in the increase of revenue at Traver that was anticipated would follow by reason of the installation and maintenance of an agent, and the figures submitted for the year 1914 indicate that less business was in evidence than existed during the year 1912, which was prior to the installation of the agent by reason of the Commission's order. It was, however, mentioned at the hearing by witnesses for the protestants that the work of construction of the state highway between Kingsburg and Goshen was about to commence, and since the date of the hearing it is understood that bids have been opened and contracts awarded for this work. Since the date of the hearing the attention of the Commission has been directed by a petition signed by ninety-one property owners of Traver and vicinity to the fact that incidental to the highway construction the county bridge across Kings River will be impassable for a number of weeks, thereby rendering it necessary for patrons of the Southern Pacific Company to go several miles by another route if they desire to avail themselves of the facilities offered by the Southern Pacific station at Kingsburg, where an agency is maintained. The construction of the state highway will result in a considerable amount of carloads of gravel, rock, sand, cement and other material being received at Traver station and should materially increase the revenue from freight consigned to this station. In view of this fact I am of the opinion that the Southern Pacific Company should be required to continue to maintain an agent at Traver until such time as the state highway between Kingsburg and Goshen shall have been completed.

After the completion of the state highway the patrons of Traver station should receive adequate protection for their incoming less than earload freight and should be given the advantage of the station facilities now installed at this point. The Southern Pacific Company, by reason of restrictions contained in the agreement with their telegraph operators, are unable to maintain an agent at less than a minimum salary of \$80.00 per month, and from the evidence the value of the agent's services at such rate is not received by the applicant nor by the patrons of the company. In view of the fact that there is considerable milk and cream forwarded from Traver by Wells Fargo & Company Express it will probably be necessary for that company to continue the maintenance of their agency at this station, and as the patrons of the Southern Pacific Company who may receive freight at this station in less than earload quantities are entitled to have some protection accorded them in the way of a check as to its condition on arrival and as to any shortage or damage existing, I am of the opinion that the applicant, Southern Pacific Company, should be permitted to abandon Traver as an agency station for the period of one year from the date of completion of the state highway hereinabove referred to, upon condition that said applicant employ a caretaker whose duties shall comprise the keeping open of the station for the accommodation of the traveling public, attending to the cleaning, heating and lighting of the waiting room, and who also shall assist in caring for the handling of baggage to and from the passenger trains of the applicant and to care for the incoming and outgoing less than earload freight shipments by giving same proper protection; and, further, by noting for the mutual account of shippers, consignees and the applicant, Southern Pacific Company, such exceptions as to loss, damage or shortage that would be done by a regular agent were such employed at this station. If, after a caretaker has been maintained for the period of one year under the conditions above outlined, it appears that a modification of this order should be made, such amended order of the Commission can issue in accordance with conditions existing at such time.

I, therefore, submit the following form of order:

ORDER.

Southern Pacific Company having filed with this Commission an application for permission to abandon the agency station now maintained at Traver on its San Joaquin division, a full investigation and hearing having been had and the Commission being fully advised in the premises,

It is hereby ordered that applicant, Southern Pacific Company, be permitted to discontinue the maintenance of an agent at Traver on its San Joaquin division after the work of construction of the state highway between Kingsburg and Goshen shall have been completed. con-

tracts for such construction having been awarded and the work being about to commence, and upon the following conditions:

(1) The Southern Pacific Company shall maintain for a period of one year from the date of the completion of the state highway between Kingsburg and Goshen a caretaker at its station of Traver, who shall be required to keep the waiting room open for the accommodation of passengers and who shall be responsible for the cleaning, heating and lighting of said station. Said caretaker shall also assist in the caring for and handling of baggage of passengers to and from the passenger trains of the applicant, and shall care for incoming and outgoing less than carload freight shipments by giving same proper protection and by noting for the mutual account of shippers or consignees and the applicant, Southern Pacific Company, such exceptions as to loss, damage or shortage that would be done by a regular agent were such employed by the applicant at this station.

(2) This Commission reserves the right at the expiration of the term of one year from the date of the completion of the state highway between Kingsburg and Goshen to make such further order as to it may seem right and proper or to be required by the public necessity and convenience of the patrons of said applicant, Southern Pacific Company.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of April, 1915.

DECISION No. 2317.

MODESTO CHAMBER OF COMMERCE

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 557.

Decided April 21, 1915.

Supplemental order changing the site of the new depot directed to be constructed to the closed portion of J street, midway between K and I.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

SUPPLEMENTAL ORDER.

This Commission on May 18, 1914, made its order in the above entitled proceeding, directing the defendant to file plans for and erect a passenger depot in the city of Modesto in the time prescribed and on the location designated in the order.

The report of the Commission preceding the order contained recommendations to the city of Modesto that J street be closed across the tracks of the Southern Pacific Company and that K street, which is now closed, be opened; and also that the city relieve the defendant from compliance with Ordinance No. 53, new series, being an ordinance establishing the fire limits of the city of Modesto.

The Commission is now informed, by Resolution No. 223, new series, adopted by the council of the city of Modesto on March 19, 1915, that the council by ordinance did call a special election on the 17th day of March, 1915, for the purpose of submitting to the vote of the electors of the said city of Modesto the proposition of closing that portion of J street in said city which lies between the southwest line of Ninth street and the northeast line of Eighth street; and that the election was duly called and held, as required by the laws of the State of California and the ordinances of the said city of Modesto, and that said proposition failed to receive a majority of the votes cast and thereby was defeated.

The Commission is further informed by Resolution No. 227, new series, of the council of the city of Modesto, that this council did by ordinance call a special election for the 24th day of March, 1915, for the purpose of submitting to the vote of the electors of said city of Modesto the proposition of closing that portion of J street in said city which lies between the southwest line of Ninth street and the northeast line of Eighth street, and granting the defendant in this case the right to erect a depot on the portion so closed and vacated; and that said proposition did receive a majority of the votes cast at the special election and was therefore declared to have carried.

No objection is raised by the defendant to this contemplated change in the location of the depot, and I know of no reason why the Commission should not agree in this respect to a modification of its original order.

The time specified in the original order for the completion of said depot, by reason of the prolonged negotiations between the city of Modesto, the complainant, the defendant and this Commission in regard to the closing of J street, and in regard to other matters, has expired, and I recommend to the Commission that the defendant be now required to complete within six (6) months from the date of this supplemental order a passenger depot of the type and construction specified in the original order and according to the plans that have heretofore been approved by the Commission.

I submit the following form of supplemental order:

It is hereby ordered that the defendant shall within six (6) months from the date hereof build and complete a passenger depot on the closed portion of J street, midway between K and I streets, in the city of

Modesto, in accordance with the plans heretofore approved by the Commission.

In all other respects this Commission's original order, dated May 18, 1914, shall remain in full force and effect.

Dated at San Francisco, California, this 21st day of April, 1915.

DECISION No. 2318.

PATRICK F. NEARY ET AL.

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 798.

Decided April 21, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The Commission being of the opinion that it has no jurisdiction to grant relief requested in the complaint in this proceeding,

It is hereby ordered that the complaint in this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 21st day of April, 1915.

DECISION No. 2319.

IN THE MATTER OF THE APPLICATION OF NORTH FORK DITCH COMPANY, FOR ORDER AUTHORIZING IT TO MORTGAGE PROPERTY AND TO EXECUTE MORTGAGE AND MORTGAGE NOTE.

Application No. 1586.

Decided April 21, 1915.

Applicant applies for permission to issue a note in the sum of \$158,000.00 to discharge certain outstanding notes and interest accrued thereon, and the Commission not being inclined at the present time to permit the inclusion of interest charges in the principal of the new note, applicant authorized to issue a note in the sum of \$141,000.00, and to execute a mortgage covering its property as security therefor.

Theodore J. Savage, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

This is an application of North Fork Ditch Company for authority to execute and deliver to C. W. Clarke Company a promissory note

in the sum of \$158,000.00, and to secure the same by a mortgage of its property.

North Fork Ditch Company was incorporated in 1899. Its plant consists of a diversion dam on the North Fork of the American River about two and one half miles southeast of Auburn, Placer County; twenty-five miles of main canal and eleven miles of branch canal; three reservoirs and main pipe lines supplying water to the colonies in and around Orangevale and Fair Oaks.

At the present time applicant has no bonded indebtedness. Its indebtedness, other than current bills, consists of two promissory notes, in favor of C. W. Clarke Company as follows:

| Date | Due | Interest rate | Amount |
|--------------------|--------------------|---------------|--------------------|
| July 1, 1909 ----- | July 1, 1912 ----- | 6 per cent | \$131,000 00 |
| Oct. 3, 1913 ----- | Oct. 4, 1913 ----- | 6 per cent | 10,450 00 |
| | | | <hr/> \$141,450 00 |

C. W. Clarke Company is the controlling interest in North Fork Ditch Company, owning 1,497 out of 2,000 shares of the company's stock, and these notes represent advances by C. W. Clarke and C. W. Clarke Company to North Fork Ditch Company. Applicant testified that the note dated July 1, 1909, represents almost entirely moneys spent in the construction of the masonry diversion dam below Auburn, and other work that has been done on the company's plant. The note dated October 3, 1913, amounting to \$10,450.00, represents an advance made by C. W. Clarke Company to enable North Fork Ditch Company to pay off a promissory note of \$10,000.00 held by the California National Bank at Sacramento. Witness for the applicant testified that the additional sum of \$450.00 on the new note represented accrued interest charges.

In addition to the principal sums owing on these notes, considerable interest has accrued, amounting in all to about \$18,627.00. As the notes are unsecured and are now past due, C. W. Clarke Company desires that they be secured by a mortgage on the property. The ditch company, not being in a position to pay off the notes at the present time, has accordingly applied for authority to execute a new note to C. W. Clarke Company in the sum of \$158,000.00, payable on or before June 15, 1916, and bearing interest at 6 per cent per annum, and to secure the same by a mortgage of its property. The difference between the principal sum of the old notes and the new note, amounting to \$16,550.00, is intended to cover a portion of the accrued interest.

After a consideration of the evidence submitted, I am of the opinion

that North Fork Ditch Company should be permitted to issue a new promissory note, or notes, in an amount equal to the principal of the notes now outstanding, less the sum of \$450.00, which applicant testified represented accrued interest charges on the note formerly held by the California National Bank at Sacramento. As regards the inclusion of accrued interest charges in the principal sum of the new note, I am of the opinion that the evidence now before the Commission is not sufficient to warrant a finding at this time.

I recommend the following form of order:

ORDER.

North Fork Ditch Company having applied to this Commission for authority to issue a promissory note to C. W. Clarke Company in the sum of \$158,000.00, and to secure the same by a mortgage of its properties, and it appearing to the Commission that applicant's request should be granted to the extent hereinbefore set forth,

It is hereby ordered that North Fork Ditch Company be and it is hereby authorized to issue a promissory note to C. W. Clarke Company in the sum of \$141,000.00, said note to bear interest at a rate of not more than 6 per cent per annum, and to be payable on or before June 15, 1916;

It is further ordered that North Fork Ditch Company be and it is hereby authorized to execute a mortgage of its properties to C. W. Clarke Company as security for said note, said mortgage to be substantially of the form submitted by the North Fork Ditch Company in connection with its application herein, and marked Exhibit "C."

Within thirty (30) days after the issue of the promissory note herein authorized to be issued, applicant shall make report of such issue to this Commission.

The authority herein granted to issue such promissory note shall only apply to notes issued by said company on or before the eleventh day of October, 1915.

The authority herein granted is conditioned upon the payment by the applicant of the fees prescribed under the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of April, 1915.

Decisions Nos. 2320, 2321, grade crossings; not printed. See end of volume.

DECISION No. 2322.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA TRACTION COMPANY AND STOCKTON ELECTRIC RAILROAD COMPANY, FOR APPROVAL OF A CERTAIN AGREEMENT, ALSO FOR THE ABANDONMENT OF CERTAIN PORTIONS OF THE STREET RAILWAY SYSTEM IN THE CITY OF STOCKTON AND THE CANCELLATION OF CERTAIN PASSENGER RATES.

Application No. 1470.

Decided April 23, 1915.

Applicant having been permitted to abandon certain trackage, provided it secured the consent of trustee for bondholders thereto, and such trustee objecting to the proposed abandonment but declining to present evidence in support of such objections, such clause is eliminated from order and permission also granted applicant to discontinue a certain transfer privilege heretofore in effect between its interurban and city lines.

REPORT OF THE COMMISSION.

DEVLIN and GORDON, *Commissioners*.

SUPPLEMENTAL OPINION.

This Commission having on March 18, 1915, made an order granting the application in this proceeding upon certain conditions, one of which, *i.e.*, Condition No. 10, provided as follows:

“That the applicant, Central California Traction Company, present to the Commission within twenty days from date hereof satisfactory proof that suitable arrangements have been made with the trustee for bondholders consenting to the abandonment and removal of the tracks hereinbefore mentioned in this order.”

Thereafter, on April 2, 1915, the Commission received a letter from Heller, Powers and Ehrman, attorneys for the trustee of the bondholders of Central California Traction Company, which letter stated that the trustee for the bondholders can not “consent to the application presented, and therefore object thereto.” In order that the trustee for the bondholders might have an opportunity to present to the Commission evidence of the trustee’s objections to the application, a further hearing was had in this proceeding on April 21, 1915. At that hearing the trustee for the bondholders was present but stated that he had no evidence to offer in support of his objection to the granting of the application and no evidence was offered by him on that point.

In view of the fact that the trustee for the bondholders of Central California Traction Company had been fully advised of the application in this proceeding and having been given an opportunity to present evidence of their objections, if any, to the granting of the application, and in view of the fact that no evidence upon that point has been

presented and being still of the opinion that the application should be granted, we recommend that the order heretofore rendered stand; provided, however, that Condition No. 10 relating to the consent of the bondholders of the Central California Traction Company be eliminated.

There is a further feature in connection with the operation of the lease between Central California Traction Company and Stockton Electric Railroad Company which we believe should be given consideration at this time.

At present a transfer privilege exists between the interurban line and the city lines of Central California Traction Company, which privilege, if the lease is allowed to become effective, will no longer be available. As a matter of fact this transfer privilege has been of service to but a very limited number of patrons of the interurban line of Central California Traction Company and will work practically no hardship on any of the users of that line inasmuch as the terminal of the Central California Traction Company's line is in the heart of the business district of the city of Stockton. Furthermore, after this lease becomes effective there will be a universal transfer system over all the lines operated within the city of Stockton by the Stockton Electric Railroad Company.

In view of all these facts we believe that public convenience will be subserved by allowing a discontinuance of the transfer privilege between the interurban line of Central California Traction Company and the city lines heretofore operated by it and under the terms of this lease to be hereafter operated by Stockton Electric Railroad Company.

We recommend that the order heretofore made be amended to include authority to discontinue this transfer privilege.

We submit herewith the following form of order:

SUPPLEMENTAL ORDER.

A further hearing having been had in this proceeding as indicated in the foregoing opinion,

It is hereby ordered that the order heretofore made in this proceeding on March 18, 1915, stand as originally issued except as amended in the following two particulars:

It is hereby ordered that Condition No. 10 in said order reading as follows:

“That the applicant, Central California Traction Company, present to the Commission within twenty days from date hereof satisfactory proof that suitable arrangements have been made with the trustee for bondholders consenting to the abandonment and removal of the tracks hereinbefore mentioned in this order,”

be eliminated.

It is further ordered that Central California Traction Company be and it is hereby authorized to discontinue the transfer privilege here-

tofore existing between the interurban lines of Central California Traction Company and the city lines heretofore operated by said company in the city of Stockton but under the terms of the lease hereafter to be operated by Stockton Electric Railroad Company.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission.

Dated at San Francisco, California, this 23d day of April, 1915.

DECISION No. 2323.

JULIUS HEYMAN COMPANY

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND
NORTHWESTERN PACIFIC RAILROAD COMPANY.

Case No. 738.

Decided April 23, 1915.

REPORT OF THE COMMISSION.

ORDER DENYING REHEARING.

Complainant herein having filed a petition for rehearing and the Commission being of the opinion that no good cause having been shown why a rehearing should be had,

It is hereby ordered that said petition for rehearing be, and the same is hereby, denied.

Dated at San Francisco, California, this 23d day of April, 1915.

DECISION No. 2324.

IN THE MATTER OF THE APPLICATION OF THE COLUSA AND
LAKE RAILROAD COMPANY FOR PERMISSION TO DISCONTINUE
OPERATION.

Application No. 1550.

Decided April 23, 1915.

Colusa and Lake Railroad Company, operating a line of railway between the towns of Colusa and Sites, applies for permission to abandon such line, contending that its revenues are far below the cost of operation and that there are no prospects of additional tonnage being produced in this district, and the evidence submitted tending to bear out such facts, protestants being unable to show that they had made shipments over this line for some time past, application granted.

P. J. Harney, for Applicant,

L. F. Montcagle and *Albert S. Tubbs*, for bondholders of Applicant.

B. A. Atkins, for McGilvray Stone Company, Protestant.

Edwin T. Cooper, for Colusa Sandstone Company, Protestant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application of the Colusa and Lake Railroad Company requesting permission to discontinue operation of its line of railroad, it being alleged that the line is being operated at a loss; that the rolling stock is old and in poor condition; that the roadbed, rails and ties are in poor condition; that the passenger service has been discontinued; and that the floating indebtedness at the date of application amounted to about \$8,000.00. A public hearing was held in San Francisco on March 23, 1915, at which time all interested parties were represented.

The Colusa and Lake Railroad Company is a consolidation of the Colusa Railroad Company and the Colusa and Lake Railroad, said consolidation having been effected November 27, 1886, by ratification and consent of holders of more than three quarters of the capital stock of each—the Colusa Railroad and the Colusa and Lake Railroad. The Colusa Railroad Company was incorporated July 23, 1885, and was constructed from Colusa to a junction with the line of the Southern Pacific Company on the west side of the Sacramento Valley, the original reason for its construction being for the purpose of retaining the county seat of Colusa County at Colusa, there having been agitation for its removal to the town of Williams on account of the alleged isolation of the town of Colusa after the construction of the Southern Pacific Railroad on the west side of the Sacramento Valley. The records indicate that practically every citizen of Colusa subscribed for stock in the Colusa Railroad Company and that the line was immediately built from Colusa to Colusa Junction and was opened for operation in the year 1885. The Colusa and Lake Railroad was incorporated June 8, 1886, for the purpose of constructing a railroad from Colusa Junction in Colusa County to the town of Lower Lake in Lake County; the line was actually constructed by the Colusa and Lake Railroad from Colusa Junction to a point in Antelope Valley in the county of Colusa known as Sites. No extension of the lines above mentioned was made after the consolidation of the Colusa Railroad Company and the Colusa and Lake Railroad into the Colusa and Lake Railroad Company.

The capital stock of the Colusa and Lake Railroad Company was authorized in an amount of \$400,000.00. There is outstanding at this time stock to the face value of \$100,500.00, consisting of 1,005 shares at a par value of \$100.00 per share. There is outstanding a funded debt consisting of a bond issue, in amount \$50,000.00, the date of this issue being 1907, the date of maturity 1927. Bonds are interest bearing at the rate of 6 per cent per annum, interest being payable semiannually and due on April 1st and October 1st of each year.

The Colusa and Lake Railroad Company operate a narrow gauge line from Colusa to Sites, all in Colusa County, a distance of twenty-two miles. The line crosses the main line of the Southern Pacific Company at Colusa Junction. The country traversed is not thickly populated and the portion of the line between Sites and Colusa Junction has been the source of practically all the freight business contributing to the earnings of the company. At Sites there are located two sandstone quarries, from which the building stone known as "Colusa sandstone" is obtained. The remainder of the freight shipments originating on this portion of the line have been grain which has been hauled from warehouses at Sites or other stations to Colusa Junction for transshipment via the Southern Pacific Company to its ultimate destination or to Colusa over the remaining portion of the Colusa and Lake Railroad Company for warehousing at that point, or for shipment via the river steamers of either the Sacramento Transportation Company or the Farmers' Transportation Company. The portion of the line between Colusa Junction and Colusa is not productive of freight tonnage of any description, the character of the land through which the line operates not being adapted to agriculture.

The results from the operation of the Colusa and Lake Railroad Company for the fiscal year ending June 30, 1914, as reflected by the annual report filed with the Commission are as follows:

Revenue from Transportation:

| | |
|---|-------------|
| Freight revenue ----- | \$ 6,242 73 |
| Passenger revenue ----- | 7,518 49 |
| Mail revenue ----- | 987 00 |
| Express revenue ----- | 990 74 |
| Total revenue from transportation ----- | \$15,738 96 |

Operating Expenses:

| | |
|---|-------------|
| Maintenance of way and structures ----- | \$ 6,753 98 |
| Maintenance of equipment ----- | 2,264 25 |
| Transportation expenses ----- | 7,003 80 |
| General expense ----- | 1,007 00 |
| Total operating expenses ----- | \$17,029 03 |
| Taxes ----- | 1,297 75 |
| Bond interest ----- | 3,000 00 |
| Total expenses ----- | \$21,326 78 |
| Deficit ----- | \$ 5,587 82 |

The operation of passenger trains and the carrying of passengers by mixed train on the line of the Colusa and Lake Railroad Company was discontinued on August 5, 1914, for the reason that the physical

condition of the property was not deemed safe for passenger operation. The abandonment of passenger service eliminated earnings formerly derived from passengers, express and the carriage of United States mail, leaving earnings from freight transportation the entire revenue received from the operation of the line. In an endeavor to minimize the loss in revenue, the applicant reduced the train service to one freight train per day and continued such restricted service until on or about December 20, 1914, when a further reduction of service was made to a round trip three times per week. Notwithstanding the reduction in train service and the exercise of all possible economy by the management of the applicant, the results from operation show a considerable monthly deficit. The cost of operation on the basis of three trains per week appears from the testimony offered at the hearing to be approximately \$750.00 per month; the revenue from freight operation during the month of January, 1915, was \$315.06, and during the month of February, 1915, was \$340.00, resulting in a deficit for these months of about \$434.94 and \$410.00 respectively. The operation of the line is conducted with the greatest possible economy and it is not apparent where any reduction in operating costs can be made, certainly not in an amount sufficient to bring the operating expenses below the limited amount of revenue derived from the limited freight business handled. The physical condition of the line is such that a very considerable amount should be expended by the applicant to place the road in safe operating condition, especially as to the repair of bridges and trestles and the renewal of ties.

From testimony presented by witnesses for the applicant it would appear that the prospects for an adequate freight revenue sufficient to meet the operating expenses are not in evidence, and that a decided falling off in the amount of tonnage handled has been in evidence during recent years.

In the earlier years of operation of the line, a large tonnage of grain was handled, in some years approximately 14,000 tons; but it appears that about 50 per cent of the land formerly devoted to the raising of grain is now used for that purpose and the land now used for the raising of grain does not produce as heavy crops as in former years. Some of the land diverted from the raising of grain has been converted to deciduous fruit orchards and a portion has been planted with orange trees. This land has not as yet reached such stage of productiveness as would make it a factor in prospective freight tonnage contributory to the line of the Colusa and Lake Railroad Company. As evidence of the material falling off in the shipments of grain from the considerable tonnage enjoyed by the Colusa and Lake Railroad Company in former

years, the following figures showing tonnage moved during recent years are of interest:

| | Grain (tons) |
|---|--------------|
| Year ending November 30, 1911 (approximately) ----- | 4,700 |
| Year ending November 30, 1912 ----- | 4,815 |
| Year ending November 30, 1913 ----- | 2,745 |
| From December 1, 1913, to March 22, 1915 ----- | 4,800 |

It is quite evident that the amount of tonnage to be anticipated by reason of prospective grain shipments in the near future is not sufficient to justify the Colusa and Lake Railroad continuing its freight operation with the expectation of deriving sufficient revenue to equal its costs of operation.

At the hearing of this application, counsel for the McGilvray Stone Company and the Colusa Sandstone Company objected to the abandonment of the freight service by the applicant, Colusa and Lake Railroad Company, claiming that the plant investment at the quarries of their respective clients would be rendered worthless if the abandonment of the line were permitted, for the reason that there would be no method by which the products of the quarries could be marketed unless by the use of automobile trucks and that such method of transportation would be accompanied by unreasonable expense.

The total sandstone shipments over the line of the Colusa and Lake Railroad Company have averaged a freight revenue of \$50.00 per month during the eighteen months preceding the date of this application, the last shipment made by the Colusa Sandstone Company moving in the month of December, 1914, and the last shipment from the McGilvray Stone Company moving during the month of August, 1914. It is evident that the amount of freight tonnage offered for movement from the stone quarries at Sites is not sufficient to justify the continued operation of the Colusa and Lake Railroad Company in view of the fact that there is but slight demand for this stone in the building industry at the present time.

Mr. Louis F. Monteagle, one of the bondholders and also a trustee under the deed of trust executed as security for the bond issue of the applicant, Colusa and Lake Railroad Company, was present at the public hearing and did not express any serious objection to the granting of the application and was of the opinion that the operation of the line should be suspended.

In view of the foregoing facts and the continued monthly deficits caused by the operation of the Colusa and Lake Railroad, I am of the opinion that this application should be granted and that the Colusa and Lake Railroad Company be given permission to suspend operation until the further order of the Commission.

I hereby recommend the following form of order:

ORDER.

The Colusa and Lake Railroad Company, having made application for permission to discontinue operation, a public hearing having been held, and the Commission being fully advised in the premises,

It is hereby ordered that the Colusa and Lake Railroad Company be permitted to suspend the operation of its line of railroad in Colusa County between the town of Colusa and the town of Sites, effective on May 1, 1915, and that such suspension of operation continue until the further order of this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of April, 1915.

DECISION No. 2325.

IN THE MATTER OF THE APPLICATION OF ELIZABETH J. GARD AND JOHN L. MARSHALL FOR PERMISSION TO SELL AND MORTGAGE BACK THE WATER UTILITY PROPERTY AT INDIO, RIVERSIDE COUNTY, CALIFORNIA, WHICH IS BEING ACQUIRED BY THE SAID ELIZABETH J. GARD BY INHERITANCE FROM HOWARD E. GARD, DECEASED.

Application No. 1636.

Decided April 23, 1915.

REPORT OF THE COMMISSION.

Elizabeth J. Gard, who is the executrix of the will of Howard E. Gard, who, at the time of his death, was the owner of a public utility water plant at Indio, Riverside County, California, having filed the present application seeking the authority of the Commission to transfer this utility system to John L. Marshall for the sum of \$2,000.00, \$500.00 of which will be paid in cash and the remaining \$1,500.00 to be paid by a note maturing on or before July 1, 1916, secured by a mortgage on the property transferred, the property to be transferred being more particularly described in the application as follows:

All that portion of Lots 1 and 2 in Block F of Indio, as shown upon a certain map thereof entitled "Indio," on file in the office of the county recorder of the county of San Diego, California, in Book 10 of Maps, at page 461 thereof commencing at the south-west corner of said Lot 1; running thence northerly along the westerly line of said Lot 1, 55 feet; thence easterly parallel with the southerly line of said Block F, to a point on the southeasterly line of said Lot 2; thence southwesterly along the southeasterly line

of said Lot 2, to the southeasterly corner of said Lot 2; thence northwesterly and westerly along the southerly line of said Lot 2 and said Lot 1, 174.6 feet to the point of beginning, together with the water plant thereon located and all pipes and equipment used for conveying water from said water plant to the customers thereof, and any and all rights of way owned by the grantor for said pipes and equipment, with the appurtenances unto said water plant belonging.

And the Commission being of the opinion that this is not a case in which a public hearing is necessary and that the application should be granted,

It is hereby ordered that this application be, and the same is hereby, granted, provided that the consideration paid for the property authorized to be transferred shall not be taken before this Commission, or any other public body, as representing the value of the property for rate fixing purposes.

Dated at San Francisco, California, this 23d day of April, 1915.

DECISION No. 2326.

IN THE MATTER OF THE APPLICATION OF THE WESTERN UNION TELEGRAPH COMPANY FOR PERMISSION TO INCREASE CERTAIN RATES NAMED THROUGH A CLERICAL ERROR IN THE SCHEDULE OF RATES FILED BY THIS APPLICANT WITH THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA ON JUNE 14, 1912.

Application No. 1512.

Decided April 23, 1915.

It appearing that through clerical error, applicant's schedules on file with the Commission provide a different rate between the same points on messages going in opposite directions, which to eliminate would require a slight increase in one rate and a slight decrease in another, and such changes not being of sufficient importance to warrant a hearing, application to amend tariff granted.

REPORT OF THE COMMISSION.

Following certain correspondence passing between the Western Union Telegraph Company and the Commission relative to certain errors appearing in the tariffs of the telegraph company which it filed with the Commission during the month of June, 1912, in compliance with the provisions of the Public Utilities Act and the Commission's General Order No. 15, the correction of which will involve increases in some cases in the rates now actually charged the public for the transmission of telegrams, this application has been filed for permission to correct the errors referred to.

The application and the correspondence referred to above sets forth that through a clerical error in filing the rates the rates between offices

located in what is known by the applicant as Square No. 1264, namely, Dos Palos, Firebaugh, Kerman and Mendota, and offices located in Square No. 1254, namely, Corning, Cottonwood, Red Bluff, Tehama, Vina and Los Molinos, were listed upon the rate sheet for Square No. 1264 as 30 cents for the first ten words and 2 cents for each additional word, and were listed upon the rate sheet for Square No. 1254 as 50 cents for the first ten words and 3 cents for each additional word. This would mean that the rates for messages transmitted from offices located in Square No. 1264 to offices located in Square No. 1254 would be 30 and 2, while the rates for messages going in the opposite direction between the same offices would be 50 and 3, resulting in discrimination against senders of messages from offices having the higher rates.

The applicant represents that the rate of 50 and 3 is the correct rate from offices located in Square No. 1264 and was the rate actually in effect prior to the filing of their tariffs with the Commission. It appears also from the applicant's record of actual business passing between these offices for the year ending January 31, 1915, that the correction of this error would have represented an increase in the total receipts for that year of only 74 cents.

The correspondence above referred to also refers to a further error in the filing of rates for messages transmitted from offices located in Square No. 1264 to offices located in Square No. 1255 as compared with the filed rates for messages going in the opposite direction, this rate in the one case being 40 and 3 as against 30 and 2 in the other. It appears in this case that the lower rate is the correct rate according to the applicant's method of fixing rates, and if this correction were made the total receipts from business from offices located in Square No. 1264 would have been reduced 35 cents during the same year. The applicant has expressed its willingness to reduce the rate from offices located in Square No. 1264 to offices located in Square No. 1255 to 30 and 2, as above, and to amend this application accordingly. The application will, therefore, be considered as herein amended.

Since the actual result to the public in actual charges of allowing these corrections to be made is so small as to be negligible, and since it appears that these errors are the result of clerical errors in copying the tariffs for filing purposes, a formal hearing by the Commission does not appear to be necessary for their correction.

ORDER.

Application having been made by the Western Union Telegraph Company, a corporation, for permission to increase certain rates named through a clerical error in the schedule of rates filed by the applicant with the Railroad Commission of the State of California on June 14, 1912, and the application herein having been amended as set forth in the report of the Commission preceding this order, and it appearing

that this is a matter in which a formal hearing is not necessary, and the Commission being fully apprised in the premises,

It is hereby ordered that the application herein and as herein amended be and it is hereby granted, provided that this permission is not to be taken as approval of the rates since the Commission has not passed upon their reasonableness.

This order to be and become effective upon the filing by the applicant with this Commission of its revised square rate sheets as set forth in the application as herein amended.

By order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 23d day of April, 1915.

DECISION No. 2327.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND
EASTERN RAILWAY TO ISSUE NOTES.

Application No. 1570.

Decided April 24, 1915.

Applicant having outstanding a note of the face value of \$100,400.00 and several notes of the Oakland and Antioch Railway of the face value of \$100,000.00 which it desires to refund, applies for permission to issue promissory notes of the face value of \$200,400.00 for such purposes and also for permission to pledge \$334,000.00 face value of its 5 per cent bonds as security therefor, and also with \$36,000.00 face value of bonds as security for a note recently issued in the sum of \$21,028.77. Application granted.

Jesse W. Steinhart, for Applicant.

Howard D. Smith, in *propria persona*.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Oakland, Antioch and Eastern Railway to issue promissory notes as follows:

A one day note to Union Trust Company of San Francisco of the sum of \$100,400.00 to refund a note of like amount now held by Union Trust Company of San Francisco.

A one day note to Anglo and London Paris National Bank of San Francisco of the sum of \$60,000.00.

A one day note to Anglo and London Paris National Bank of San Francisco of the sum of \$33,000.00.

A one year note of the sum of \$7,000.00 to A. W. Maltby.

The two notes which the applicant proposes to issue to the Anglo and London Paris National Bank and the note which it proposes to issue to Mr. Maltby are to be used to refund four notes aggregating \$100,000.00

previously issued to Anglo and London Paris National Bank by Oakland and Antioch Railway.

The applicant further asks for authority to issue its first mortgage 5 per cent bonds as collateral security for the notes which it now proposes to issue in such ratio that the face value of the notes may be 60 per cent of the face value of the bonds so pledged.

The applicant also asks for authority to pledge its first mortgage 5 per cent bonds as collateral security for a note heretofore issued to the Union Switch and Signal Company of the sum of \$21,028.77; said bonds to be pledged in such ratio that the face value of the note may be 60 per cent of the face value of the bonds pledged.

The application therefore contemplates the pledge of bonds of the face value of \$370,000.00. Authority has heretofore been given to this applicant to pledge bonds in an amount in excess of this sum, but such order has expired.

It is in testimony that the notes which it is now proposed to refund were given for capital purposes. The application, therefore, is chiefly a request for a renewal of an order to pledge bonds heretofore given, and for authority to refund notes.

The applicant stated that the arrangements with the banks contemplate the release of certain indorsers of the company's notes. The applicant stated further that request had been made for the collateral as a condition for the renewal of certain of the loans.

Oakland, Antioch and Eastern Railway will assume the obligation on notes amounting to \$100,000.00 heretofore issued by Oakland and Antioch Railway. As the stock of Oakland and Antioch Railway is owned by Oakland, Antioch and Eastern Railway, and as this arrangement is apparently satisfactory to all parties, I see no reason why it should not be allowed.

In view of all the circumstances above recited, I recommend that the application be granted and submit the following form of order:

ORDER.

Oakland, Antioch and Eastern Railway, having applied to this Commission for authority to issue notes and to pledge bonds as stated in the foregoing opinion,

And a hearing having been held and it appearing that the purposes for which it is proposed to issue said notes and bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Oakland, Antioch and Eastern Railway be granted authority and it is hereby granted authority to issue promissory notes as follows:

One note to Union Trust Company of San Francisco of the face value of \$100,400.00 for the purpose of refunding a note in like amount issued by the applicant and held by Union Trust Company of San Francisco.

One note to Anglo and London Paris National Bank of San Francisco of the face value of \$60,000.00.

One note to Anglo and London Paris National Bank of San Francisco of the face value of \$33,000.00.

One note to A. W. Maltby of the face value of \$7,000.00.

It is further ordered that Oakland, Antioch and Eastern Railway be granted authority and it is hereby granted authority to pledge as collateral security for the notes herein authorized to be issued, its first mortgage 5 per cent bonds in the sum of \$334,000.00, said bonds to be pledged in such ratio that the face value of the notes at any time issued or outstanding under this order shall not be less than 60 per cent of the face value of the bonds pledged.

It is further ordered that Oakland, Antioch and Eastern Railway be granted authority and it is hereby granted authority to pledge \$36,000.00 of its first mortgage 5 per cent bonds as collateral security for a note heretofore issued to Union Switch and Signal Company of the sum of \$21,028.77.

The authority herein granted to the applicant is granted upon the following conditions and not otherwise:

(1) The notes herein authorized to be issued to the Anglo and London Paris National Bank of San Francisco and to A. W. Maltby shall be used for the purpose of refunding four notes heretofore issued by Oakland and Antioch Railway to Anglo and London Paris National Bank of San Francisco in the total amount of \$100,000.00.

(2) The notes herein authorized to be issued shall mature not later than three years from date and shall bear interest not to exceed 7 per cent per annum.

(3) Within thirty days after the notes herein authorized to be issued shall have been issued and the bonds herein authorized to be pledged shall have been pledged, the applicant shall report such issue and such pledge to this Commission, and shall also report that the notes herein authorized to be refunded have been canceled.

(4) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

(5) The authority herein granted shall apply to such notes as shall have been issued on or before December 31, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of April, 1915.

DECISION No. 2328.

IN THE MATTER OF THE APPLICATION OF MOUNTAIN LIGHT AND WATER COMPANY AND F. A. CODY, FOR AN ORDER AUTHORIZING THE SALE OF BEN LOMOND WATER WORKS.

Application No. 1582.

Decided April 24, 1915.

F. A. Cody authorized to transfer to the Mountain Light and Water Company the water system known as the Ben Lomond Water Works, and the Mountain Light and Power Company to issue, in consideration therefor, two notes aggregating \$1,941.90, together with certain property and cash considerations and to assume the indebtedness at present against such property. Mountain Light and Power Company authorized to execute a mortgage and to issue ten shares of its capital stock of the par value of \$100.00.

H. L. Breed, for Applicant.

J. C. Hughes, for Jessie F. Hughes, mortgagee.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

In this application the Commission is asked to authorize the sale and transfer of the Ben Lomond Water Works at Ben Lomond, Santa Cruz County, from F. A. Cody to Mountain Light and Water Company. The transfer of this property was originally made on August 15, 1914, but as it was undertaken without securing the Commission's authorization, as provided in section 51a of the Public Utilities Act, the present application becomes necessary.

From the evidence and testimony of the witnesses at the hearing it appears that the transfer of the property was made in good faith and not from any desire to evade the provisions of the Public Utilities Act.

Ben Lomond Water Works is located in the summer resort colony at Ben Lomond, Santa Cruz County, and water is served for domestic purposes only, including household use and the sprinkling of lawns, private gardens and roads. In a decision rendered June 2, 1914, in Application No. 1098, the Commission found the present value of the water system to be the sum of \$8,022.00. The property to be transferred consists of about sixty acres of watershed land; four small pieces of town property in Ben Lomond; water rights on the San Lorenzo River and Dean and Marshall creeks; and the pipe system, flumes, intake and other facilities used in collecting and distributing water in Ben Lomond and vicinity; all of which is more particularly described in Exhibit "B," attached to the original application.

The application states that the property is now subject to the following mortgages in the form of deeds of trust:

(a) F. A. Cody and wife to F. D. Baldwin and Frank K. Roberts, trustees for City Savings Bank of Santa Cruz, dated October 26, 1910, securing the payment of \$2,900.00.

(b) F. A. Cody, a widower, to F. D. Baldwin and T. J. McCreary, trustees for H. Currie, dated June 28, 1913, securing the payment of \$5,000.00.

(c) Mountain Light and Water Company to John C. Hughes and E. H. Russell, in trust for Jessie F. Hughes, dated August 17, 1914, securing the payment of \$1,700.00.

At the hearing Mountain Light and Water Company presented an amended application, requesting the Commission's approval of the mortgage and note in favor of Jessie F. Hughes, mentioned in paragraph (c) above; the approval of an unsecured short term note in favor of F. A. Cody in the sum of \$241.90; and the issue of 247 shares of stock (out of the 250 shares authorized by the company's articles of incorporation) to A. F. Hewlett and G. L. Stillwell in consideration of the transfer of the water utility property above mentioned from F. A. Cody to Mountain Light and Water Company.

The terms upon which it is proposed that Mountain Light and Water Company shall acquire the property are the issuance of 247 shares of stock to A. F. Hewlett and G. L. Stillwell, the issuance of the above mentioned note to Jessie F. Hughes in the sum of \$1,700.00; the issuance of the note to F. A. Cody in the sum of \$241.90; and the assumption by the Mountain Light and Water Company of the present indebtedness upon the water utility property. For his share in the transaction Cody is to receive the promissory note from Mountain Light and Water Company, amounting to \$241.90, together with \$4,000.00 equity in a lot and \$1,500.00 in cash, to be transferred to him by A. F. Hewlett and G. L. Stillwell. It also appears that a portion of the proceeds of the \$1,700.00 note in favor of Jessie F. Hughes is to be paid to Mr. Cody.

After a consideration of the evidence presented I am of the opinion that F. A. Cody should be permitted to transfer the water utility system at Ben Lomond, Santa Cruz County (more fully described in Exhibit "B" attached to the original application) to Mountain Light and Water Company, upon the terms heretofore mentioned.

I am further of the opinion that Mountain Light and Water Company should be permitted to secure the note to Jessie F. Hughes in the sum of \$1,700.00 by a mortgage and deed of trust upon its property.

I am further of the opinion that the granting of the Mountain Light and Water Company's application to issue 247 shares of stock is not warranted at the present time, but I am of the opinion that the company should be permitted to issue a nominal number of shares of stock, such

shares to serve merely as certificates of ownership and not to be predicated upon property values.

I shall accordingly recommend that the company be allowed to issue ten shares of stock of the par value of \$100.00 per share.

As regards the company's application to issue an unsecured promissory note to F. A. Cody in the sum of \$241.90, and to issue a promissory note to Jessie F. Hughes in the sum of \$1,700.00, I am of the opinion that the Commission's authorization is not necessary, as the term of these notes does not exceed one year.

I desire to call the applicant's attention to the fact that the notes issued by F. A. Cody to H. Currie, totaling \$5,000.00, and the mortgage and deed of trust securing the same, have never been approved by this Commission. I shall accordingly recommend that the transfer of the property be made dependent upon the issuance of a supplemental order approving new notes and mortgage in lieu of those executed without the approval of this Commission.

I recommend the following form of order:

ORDER.

F. A. Cody and Mountain Light and Water Company having applied to this Commission for an order authorizing the sale and transfer of the water utility system at Ben Lomond, Santa Cruz County, from F. A. Cody to Mountain Light and Water Company, and Mountain Light and Water Company in an amended application, filed March 17, 1915, having applied for authority to issue certain notes and stock and to execute a mortgage and deed of trust as hereinbefore set forth.

It is hereby ordered that F. A. Cody be and he is hereby authorized to transfer the said water utility system, more fully described in Exhibit "B" attached to the original application, to Mountain Light and Water Company, upon the terms set forth in the opinion that precedes this order; provided, however, that the purchase price of the property shall not be binding before this Commission, or any other public body, as a basis for rate making or other purposes.

It is further ordered that Mountain Light and Water Company be and it is hereby authorized to secure a promissory note to John C. Hughes and E. H. Russell, in trust for Jessie F. Hughes, in the sum of \$1,700.00 by the execution of a mortgage and deed of trust upon its property, substantially of the form submitted by applicant in connection with its amended application herein and marked Exhibit "D."

It is further ordered that Mountain Light and Water Company be and it is hereby authorized to issue ten shares of its capital stock at the par value of \$100.00 per share to A. F. Hewlett and G. L. Stillwell in lieu of 247 shares of stock heretofore illegally issued; provided, however, that said capital stock shall only be issued after the 247 shares of stock illegally issued have been returned to the company's

treasury and cancelled, and provided, further, that such issue of stock shall not be taken as representing the value of the company's property for rate making or other purposes.

It is further ordered that before any of the acts herein authorized shall have taken place the applicants herein shall make application for, and secure from the Commission, a supplemental order approving the issue of notes to H. Currie in the sum of \$5,000.00 and the mortgage and deed of trust securing the same.

The authority herein granted to transfer property, and to issue notes and stock, shall only apply to such transfer of property and issuance of notes and stock as shall have been made on or before May 1, 1916.

The deed conveying the property herein authorized to be transferred should contain a description of the property set forth in Exhibit "B" in this proceeding. Applicants may obtain from the Commission a certification that the description of the property in said deed conforms to that in Exhibit "B" and also that the mortgage executed conforms to the form set forth in Exhibit "D" in this proceeding.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of April, 1915.

DECISION No. 2329.

IN THE MATTER OF THE APPLICATION OF W. G. AND E. D. WADLEY
TO HAVE A SCHEDULE OF WATER RATES FIXED FOR THE TERRI-
TORY SUPPLIED BY APPLICANT NEAR LOS ANGELES.

Application No. 1387.

Decided April 28, 1915.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

SUPPLEMENTAL ORDER.

Subsequent to the opinion and order made in this application, applicant has asked that he be allowed to put into effect certain rules which he considers necessary for the successful operation of his utility, and it appearing that said rules are fair and conform to rules heretofore allowed by this Commission to be put into effect,

It is hereby ordered that W. G. and E. D. Wadley be and are hereby authorized to put into effect the following rules:

1. That the flat rate of \$1.20 per month apply to services for single lots as shown by the plats of the subdivisions furnished with water by W. G. and E. D. Wadley.

2. Water may be used for irrigation from 5 to 10 a.m. and from 4 to 9 o'clock p.m.

3. In cases where water paid for under flat rate is allowed to run all night, a penalty of 25 cents shall be collected.

It is, therefore, hereby ordered that the rules and regulations herein set forth shall obtain and apply to the service of water by W. G. Wadley and Emily D. Wadley, his wife, in Manchester Heights and Olivito Heights Tract, near Los Angeles.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission.

Dated at San Francisco, California, this 28th day of April, 1915.

DECISION No. 2330.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES RAILWAY CORPORATION FOR AN ORDER AUTHORIZING THE SALE OF BONDS.

Application No. 1600.

Decided May 1, 1915.

Los Angeles Railway Corporation authorized to issue \$250,000.00 face value of its 5 per cent gold bonds to be sold at not less than \$3 for the purpose of refunding an equal amount of bonds of Los Angeles Traction Company maturing May 1, 1915.

Samuel Haskins, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Los Angeles Railway Corporation for authority to issue \$250,000.00 of its first and refunding mortgage gold bonds for the purpose of paying off \$250,000.00 of bonds of Los Angeles Traction Company, which mature on May 1, 1915.

The mortgage and deed of trust of the applicant provide that \$250,000.00 of its first and refunding mortgage gold bonds shall be reserved to retire the \$250,000.00 of Los Angeles Traction Company bonds. The applicant has absorbed the properties of the Los Angeles Traction Company and has assumed the \$250,000.00 of Los Angeles Traction Company bonds.

As this is a proper refunding, I recommend that the application be granted and submit the following form of order:

ORDER.

Los Angeles Railway Corporation having applied to this Commission for authority to issue \$250,000.00 of its first mortgage 5 per cent gold bonds, and a hearing having been held and it appearing that the purpose for which it is desired to issue said bonds is not reasonably chargeable to operating expenses or to income,

It is hereby ordered that Los Angeles Railway Corporation be granted authority and it is hereby granted authority to issue \$250,000.00 of its first mortgage 5 per cent gold bonds.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The bonds herein authorized to be issued shall be sold so as to net the applicant not less than 83 per cent of the face value thereof, plus accrued interest thereon.

(2) The proceeds from the sale of the bonds hereby authorized to be issued shall be used for the purpose of retiring \$250,000.00 of bonds of Los Angeles Traction Company, maturing May 1, 1915, in so far as said proceeds shall be applicable.

(3) Los Angeles Railway Corporation shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

(5) The authority herein granted shall apply to such bonds as shall have been issued on or before December 31, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of May, 1915.

Decisions Nos. 2331, 2332 and 2333, grade crossings; not printed. See end of volume.

DECISION No. 2334.

PACIFIC COAST POTTERY AND TERRA COTTA COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 592.

Decided May 3, 1915.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

It is hereby ordered that the paragraph in the order heretofore made in this proceeding, on April 21, 1915, reading "It is further ordered that in all other respects the complaint herein be dismissed," be and the same is hereby amended to read:

It is further ordered that in all other respects the complaint herein be dismissed without prejudice.

Dated at San Francisco, California, this 3d day of May, 1915.

DECISION No. 2335.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE PAYMENT OF ADDITIONAL INTEREST ON OUTSTANDING BONDS AND THE ISSUANCE OF CERTAIN ADDITIONAL BONDS.

Application No. 1516.

Decided May 3, 1915.

Applicant, having a considerable floating indebtedness which it desires to reduce, applies for permission to put into effect a plan whereby it proposes to increase the interest on its outstanding bonds from 5 per cent to 6 per cent, upon the payment by the holders of such bonds of \$100.00 per \$1,000.00, also to issue \$1,532,000.00 face value 6 per cent Series "C" bonds to be exchanged for a like face value of 5 per cent Series "B" bonds now in applicant's treasury or pledged to secure notes, or as an alternative, to sell same at not less than 95, proceeds, together with proceeds of an additional \$50,000.00 face value of bonds which applicant proposes to issue and sell at 95 and the receipts from outstanding bonds under the proposed interest increase, to be used for the purpose of discharging the notes amounting to \$954,000.00, and such portions of its floating indebtedness as the balance will permit.

Held, That though the Commission does not entirely approve of this method of financing as adopted by applicant, owing to the insistence of applicant's financial agents that it is the best course to pursue at the present time, and the withdrawal of the protest of certain stockholders, together with applicant's reduction of \$12,000.00 in the salaries of several of its officials, application granted, provided that within ninety days applicant shall submit a plan of providing for necessary additions and betterments from sources other than the sale of bonds.

Short & Sutherland, by W. A. Sutherland, for Applicant.
Julius A. Landsberger, Victor J. Robertson, W. N. Moore, and Ambrose
Gherini, for certain preferred stockholders of Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

In this application San Joaquin Light and Power Corporation asks for authority as follows:

(1) To increase the rate of interest from 5 per cent to 6 per cent per annum on \$2,924,000.00 face value Series "B" forty-year first and refunding mortgage gold bonds dated August 1, 1910, and now outstanding, provided the holders of the bonds pay into the treasury of San Joaquin Light and Power Corporation the sum of \$100.00 for each \$1,000.00 bond owned;

(2) To execute to Lyman Rhodes, trustee, a mortgage and deed of trust securing the payment of the additional 1 per cent interest on said Series "B" bonds;

(3) To issue in lieu of \$1,532,000.00 face value 5 per cent Series "B" forty-year first and refunding mortgage gold bonds, \$1,532,000.00 face value 6 per cent Series "C" first and refunding mortgage gold bonds dated August 1, 1910; of which \$1,532,000.00 5 per cent Series "B" bonds \$1,272,000.00 are pledged as collateral and the remainder are in applicant's treasury;

(4) To issue and sell additional 6 per cent Series "C" forty-year first and refunding mortgage gold bonds, dated August 1, 1910, to the face value of \$50,000.00.

Although this application asks for authority to issue and sell additional bonds to the face value of \$136,000.00, the testimony shows that the \$136,000.00 includes bonds to the face value of \$86,000.00 heretofore authorized by this Commission to be issued, pledged or sold.

Applicant desires the authority of this Commission to either deposit as collateral \$1,272,000.00 face value 6 per cent Series "C" first and refunding mortgage gold bonds dated August 1, 1910, in lieu of a like amount of 5 per cent Series "B" first and refunding mortgage gold bonds now pledged to secure the payment of \$954,000.00 face value of two-year collateral trust notes due August 1, 1915, or to sell the bonds at a price to be determined by the Commission and use the proceeds of such sale to retire the said two-year collateral trust notes. The proceeds to be obtained from the remainder of the bonds, which applicant desires to sell, together with the additional moneys to be paid by the present holders of Series "B" bonds, applicant desires to use to discharge, so far as possible, floating indebtedness amounting to \$963,216.26, represented by notes payable, as shown in Exhibit "A" attached to this application.

The history of San Joaquin Light and Power Corporation and its capitalization in relation to the value of physical properties were con-

sidered in Decision No. 1525, dated May 18, 1914, to which decision reference is hereby made.

The deed of trust, dated August 1, 1910, securing the payment of \$25,000,000.00 face value forty-year first and refunding mortgage gold bonds of San Joaquin Light and Power Corporation provides that of such bonds, \$1,500,000.00 face value shall bear 6 per cent interest per annum and that the remaining bonds, \$23,500,000.00 face value, may from time to time be issued in series, the interest to be fixed by the board of directors but in no case to exceed 6 per cent.

Applicant reports as issued and in the hands of the public \$2,924,000.00 face value 5 per cent Series "B" bonds and that it has in its treasury, or pledged as collateral, \$1,532,000.00 face value 5 per cent Series "B" bonds. On all of these Series "B" bonds, applicant desires to increase the rate of interest to 6 per cent. The bonds having been issued, the board of directors no longer has the power to determine the rate of interest. It is for this reason that it is proposed to execute the supplemental mortgage and deed of trust, to which reference has been made, to Lyman Rhodes, trustee.

To secure the payment of the additional 1 per cent interest, the company proposes to convey to Lyman Rhodes, trustee, all the property covered by the granting clauses of its first and refunding mortgage. The property to be conveyed to Lyman Rhodes, trustee, is subject to the company's first and refunding mortgage, and to any other lien which is now or may hereafter become prior thereto.

This supplemental indenture provides that at the request of the president or vice president and the secretary or assistant secretary of the company, The Equitable Trust Company of New York shall endorse on Series "B" bonds, upon which additional interest is to be paid the following:

"For value received, San Joaquin Light and Power Corporation promises to pay on the within bond, without deduction for taxes of any kind, interest (additional to the 5 per cent interest therein specified) at the rate of 1 per cent per annum until such bond is paid, the interest maturing on or prior to the maturity of the bonds to be payable only upon the presentation and surrender of the semiannual interest coupons attached to said bond representing such additional interest payments, as such coupons severally mature. This agreement to pay such additional interest and the coupons representing the same are secured by and subject to all the terms and conditions of an indenture dated 1915, executed by said corporation to ----- as trustee.

Dated -----

SAN JOAQUIN LIGHT AND POWER CORPORATION,
By The Equitable Trust Company of New York,
Attorney in Fact."

Only bonds bearing this endorsement shall be entitled to the benefit of this supplemental deed of trust.

The holders of the outstanding Series "B" bonds may receive 6 per cent interest only on the condition that they pay into the treasury of San Joaquin Light and Power Corporation \$100.00 for each bond held by them.

The representative of the applicant states that it has adopted this expedient for the reason that an offering of 6 per cent bonds would tend to depreciate the market value of the outstanding 5 per cent bonds. The evidence shows that San Joaquin Light and Power Corporation has sold its Series "B" bonds at prices ranging from 85 per cent to 88 per cent of their face value. The average price received was approximately 86 per cent of the face value.

Should the bondholders pay the \$100.00 additional in order that they might be entitled to receive 6 per cent interest per annum, the average price of the bonds would be increased to 96 per cent of the face value. Various witnesses for applicant testified that San Joaquin Light and Power Corporation could not at this time dispose of its 5 per cent bonds on as high a basis as 85. Some were of the opinion that in large block the bonds could not be sold at even 80.

Applicant submitted several statements showing the additional cost to the company of issuing 6 per cent bonds at 95 to replace 5 per cent bonds now outstanding. No amount of calculation can change the fact that a 5 per cent forty-year bond sold at 86 is less expensive financing than a 6 per cent bond sold on a 96 per cent basis. Applicant, however, contends that by virtue of reducing its indebtedness, it will be able to borrow money at better rates and that its general credit will be improved.

I have not been greatly impressed with the showing which the applicant has made in its effort to establish that this substitution of 6 per cent bonds for 5 per cent bonds will work to its ultimate advantage. In its basic aspect, my primary objection rests upon the voluntary assumption by this utility of a high interest rate upon its securities already issued and outstanding. That there may be certain compensating advantages may be true. After a careful inquiry into all of the calculations, showing the effect of the exchange of bonds upon the cost of money to the San Joaquin Light and Power Corporation, I would be loth to recommend that this plan be approved were it not for the fact that the directors and bankers of this corporation have insistently urged that it was the best that could be done under all of the circumstances.

I am less disposed to go into this matter at greater length because it has been made evident to this Commission that the applicant will, through a curtailment of salaries paid to two of its executive officers not in active personal management of the property, effect an annual

saving which will more than offset any extra cost that may be occasioned by the substitution of 6 per cent bonds for the 5 per cent bonds. These two executive officers, previously in receipt of \$12,000.00 per annum each, will henceforth receive \$6,000.00 each; the saving to the company amounting to \$12,000.00 per year.

At the hearing of this application, Mr. Julius A. Landsberger and Mr. Ambrose Gherini, representing certain purchasers of the preferred stock, protested against the granting of the application.

It appears that heretofore the applicant sold 10,000 shares of its preferred stock, of the par value of \$100.00 per share, for \$75.00 per share. It appears also that the remainder of the preferred stock, of the par value of \$5,500,000.00, was issued in payment of services or property. Certain purchasers of the preferred stock have united to present their protest and their representations have been presented to the Commission by Mr. Landsberger. However, in a brief submitted, the protestants suggest that this application, if it meets the approval of the Commission, be granted; provided, that simultaneously provision be made to meet the future financial requirements of the company by the sale of stock in accordance with a plan outlined by the intervenors.

The intervenors suggest that the supplemental financial needs of the applicant be met by one of the three following plans:

- (A) "By authorizing an issue of prior preferred stock, equal in amount to all of the outstanding preferred stock for which cash, or its full equivalent in property, was paid into the treasury of the company, or to the organizers of the company, as individuals, plus the amount of unissued preferred stock remaining in the treasury of the company. Of this prior preferred stock, a sufficient amount to be exchanged share for share for the present preferred stock for which cash, or its full equivalent in property, was paid into the treasury of the company, or to the organizers thereof as individuals, and the balance to be retained in the treasury, to be sold from time to time as needed to provide for the future 'junior' financing of the company. The 'regular' preferred stock received in exchange as above, and that remaining in the treasury (\$3,500,000.00) to be canceled.
- (B) "As an alternative method, we suggest that any of the organizers of the corporation who received preferred stock, the face value of which was far in excess of the actual value of the property which they turned into the company, make restitution by the surrender of the excess stock which they may be shown to have received, to the treasury of the company, thereby re-establishing the value of the outstanding preferred stock and rendering the treasury preferred stock salable.
- (C) "As a third method, we suggest that those of the promoters who may have received preferred stock of face value greatly in excess of the actual value of their properties, pay into the treasury of the company, in cash, an amount equal to the difference, which would accomplish the same thing (as set forth in the foregoing paragraph)."

In the event that one of the foregoing plans is not adopted, the intervenors recommend that an assessment be levied on all of the stock.

As the result of numerous conferences between the chief stockholders and other representatives of the applicant and the committee of preferred stockholders, an agreement has been reached between them, the terms whereof are contained in letter dated April 24, 1915, signed by the chief stockholders of applicant and addressed to the representatives of the committee. A copy of this letter is now on file in these proceedings. The committee of preferred stockholders has now withdrawn its opposition to the granting of this application.

Inasmuch as the applicant has maturing on August 1, 1915, two-year collateral trust notes amounting to \$954,000.00 and in addition thereto has a floating indebtedness of \$1,178,471.03, it would appear that the financial needs of this utility are urgent.

If the plan presented in this application be executed—

| | |
|--|----------------|
| The company would realize from the present bond holders_____ | \$292,400 00 |
| From the sale of \$1,532,000.00 face value first and refunding mortgage bonds at 95_____ | 1,455,400 00 |
| From the sale of \$50,000.00 face value first and refunding mortgage bonds at 95 _____ | 47,500 00 |
| Making a total of_____ | \$1,795,300 00 |

After paying the two-year collateral trust notes and applying the remainder of the funds to be obtained from the sale of its bonds to discharge floating indebtedness, applicant would have a remaining current indebtedness of only \$337,171.03. This amount includes \$215,254.77 represented by accounts payable.

Mr. Peat, treasurer and controller of San Joaquin Light and Power Corporation, thought that the earnings of the company would be sufficient to take care of this current indebtedness plus the 5 per cent discount on the bonds and the 15 per cent cost of additions and betterments, for which applicant can not issue bonds under its first and refunding mortgage and deed of trust. Even assuming that such would be the case, applicant's proposed financial plan would not comply with this Commission's views expressed in Decision No. 1525, dated May 18, 1914. In that decision the Commission said:

"While there is obviously a very large discrepancy between the value of the property of the San Joaquin Light and Power Corporation and the amount of stock and bonds outstanding, and while a very considerable portion of the item of rights and franchises, amounting to \$15,463,997.37, should more properly be carried on the books of the company as 'unamortized discount on capital stock,' it is necessary to consider these matters further at the present time, for the reason that the San Joaquin Light and Power Corporation will soon present to this Commission a plan for

refinancing the company in such a way as to establish a more normal relationship between the value of the property and the face value of its stock and bonds, and also for securing funds for necessary additional capital expenditures from sources other than bonds."

While the Commission has no desire to delay action on this application, it does not consider the financial plan proposed by applicant in its petition herein in full accordance with its former decision. The plan proposed in this application is one to meet immediate rather than future needs, and while it calls for the issuance and sale of \$50,000.00 face value of additional bonds, it involves primarily a change in the interest rate on bonds now outstanding or on bonds heretofore authorized to be issued.

The facts submitted in connection with this application do not warrant a modification of this Commission's views as expressed in Decision No. 1525, dated May 18, 1914. I, therefore, recommend that San Joaquin Light and Power Corporation within ninety days submit to this Commission a plan for future supplemental financing.

San Joaquin Light and Power Corporation reports assets and liabilities as of December 31, 1914, as follows:

| | |
|---------------------------------------|------------------------|
| <i>Assets.</i> | |
| Rights and franchises | \$13,883,222 63 |
| Tangible capital | 11,340,293 98 |
| Investments | 342,912 92 |
| Treasury securities | 633,000 00 |
| Cash and deposits | 105,239 21 |
| Notes receivable | 297,547 34 |
| Accounts receivable | 674,600 04 |
| Materials and supplies | 346,096 76 |
| Sinking funds | 69,856 68 |
| Prepaid expenses | 4,935 65 |
| Unamortized discount on stock | 1,250,000 00 |
| Unamortized discount on bonds | 495,133 53 |
| Suspense | 47,868 54 |
| Total assets | \$29,490,707 28 |
| <i>Liabilities.</i> | |
| Common stock outstanding | \$11,000,000 00 |
| Preferred stock outstanding | 6,500,000 00 |
| Funded debt outstanding | 8,930,000 00 |
| Notes payable | 971,748 38 |
| Accounts payable | 231,881 72 |
| Interest accrued | 131,750 04 |
| Taxes accrued | 3,642 01 |
| Dividends declared | 16,406 25 |
| Service billed in advance | 25,590 75 |
| Reserve for accrued depreciation | 552,402 04 |
| Casualty and insurance reserve | 4,076 22 |
| Reserve invested in sinking fund | 342,856 68 |
| Other reserves from income or surplus | 72,839 36 |
| Capital surplus | 321,259 98 |
| Corporate surplus unappropriated | 386,253 85 |
| Total liabilities | \$29,490,707 28 |

San Joaquin Light and Power Corporation reports earnings and expenses for the year ending December 31, 1914, as follows:

Electric Operations.

| | |
|--------------------------|----------------|
| Operating revenues ----- | \$1,569,282 64 |
| Operating expenses ----- | 636,053 91 |

| | |
|--------------------------------------|--------------|
| Net operating revenue—Electric ----- | \$933,228 73 |
|--------------------------------------|--------------|

Gas Operations.

| | |
|--------------------------|--------------|
| Operating revenue ----- | \$161,430 48 |
| Operating expenses ----- | 125,648 04 |

| | |
|---------------------------------|-----------|
| Net operating revenue—Gas ----- | 35,782 44 |
|---------------------------------|-----------|

Water Operations.

| | |
|--------------------------|-------------|
| Operating revenues ----- | \$15,738 73 |
| Operating expenses ----- | 10,330 62 |

| | |
|-----------------------------------|----------|
| Net operating revenue—Water ----- | 5,408 11 |
|-----------------------------------|----------|

| | |
|-----------------------------------|--------------|
| Total net operating revenue ----- | \$974,419 28 |
|-----------------------------------|--------------|

Other Income.

| | |
|-------------------------------|------------|
| Interest ----- | \$5,561 96 |
| Dividends ----- | 9,533 50 |
| Rent ----- | 4,041 60 |
| Sinking fund accretions ----- | 2,651 45 |
| Miscellaneous ----- | 2,406 15 |

| | |
|-------------|-----------|
| Total ----- | 24,194 66 |
|-------------|-----------|

| | |
|------------------------------|--------------|
| Gross corporate income ----- | \$998,613 94 |
|------------------------------|--------------|

Deductions.

| | |
|--|--------------|
| Interest on funded debt ----- | \$403,511 09 |
| Interest on other debt ----- | 73,530 47 |
| Uncollectible bills ----- | 4,868 85 |
| Non-operating revenue deductions ----- | 686 50 |
| Rent ----- | 456 00 |
| Amortization of debt discount and expenses ----- | 37,901 68 |

| | |
|------------------------|--------------|
| Total deductions ----- | \$520,954 59 |
|------------------------|--------------|

| | |
|--|--------------|
| Surplus from operations for year ----- | \$477,659 35 |
|--|--------------|

I recommend that this application be granted as specified in the order and submit herewith the following form of order:

ORDER.

San Joaquin Light and Power Corporation having made application to this Commission for authority:

(1) To execute and issue interest coupons of 1 per cent per annum to be attached to \$2,924,000.00 face value of Series "B" forty-year first and refunding mortgage gold bonds dated August 1, 1910, provided the holders of such bonds pay into the treasury of the company the sum of \$100.00 for each \$1,000.00 bond held by them;

(2) To issue \$1,532,000.00 face value 6 per cent Series "C" forty-year first and refunding mortgage gold bonds dated August 1, 1910, to replace \$1,532,000.00 face value 5 per cent Series "B" forty-year first and refunding mortgage gold bonds dated August 1, 1910;

(3) To issue and sell additional Series "C" 6 per cent forty-year first and refunding mortgage gold bonds of the face value of \$50,000.00;

(4) To execute a mortgage and deed of trust to Lyman Rhodes, trustee, to secure the payment of the 1 per cent interest coupons referred to in paragraph numbered one of this order, a copy of which mortgage and deed of trust is attached to this application and marked Exhibit No. 2; and a public hearing having been held and the Railroad Commission finding that the purposes for which said bonds are herein authorized to be issued are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered that San Joaquin Light and Power Corporation be granted authority and it is hereby granted authority—

(1) To execute and issue interest coupons of 1 per cent per annum to be attached to \$2,924,000.00 face value of Series "B" forty-year first and refunding mortgage gold bonds dated August 1, 1910, to such holders of such bonds as pay into the treasury of the company the sum of \$100.00 for each \$1,000.00 bond held by them;

(2) To issue \$1,532,000.00 face value 6 per cent Series "C" forty-year first and refunding mortgage gold bonds dated August 1, 1910, to replace \$1,532,000.00 face value 5 per cent Series "B" forty-year first and refunding mortgage gold bonds dated August 1, 1910;

(3) To issue and sell additional Series "C" 6 per cent forty-year first and refunding mortgage gold bonds of the face value of \$50,000.00;

(4) To execute a mortgage and deed of trust to Lyman Rhodes, trustee, to secure the payment of the 1 per cent interest coupons to which reference has heretofore been made; the terms of this mortgage and deed of trust to be substantially of the form and tenor of the form of mortgage and deed of trust attached to this application and marked Exhibit No. 2.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) San Joaquin Light and Power Corporation may increase the rate of interest from 5 per cent to 6 per cent on its \$2,924,000.00 face value of Series "B" forty-year first and refunding mortgage gold bonds dated August 1, 1910, now outstanding, through the issue of one per cent interest coupons, but only to such holders as shall have paid on each \$1,000.00 bond held by them the sum of \$100.00.

(2) San Joaquin Light and Power Corporation may issue \$1,532,000.00 6 per cent Series "C" forty-year first and refunding mortgage gold bonds dated August 1, 1910, to replace \$1,532,000.00

of 5 per cent Series "B" forty-year first and refunding gold bonds dated August 1, 1910, now pledged as collateral or in applicant's treasury.

(3) San Joaquin Light and Power Corporation may issue and sell additional 6 per cent Series "C" forty-year first and refunding mortgage gold bonds dated August 1, 1910, of the face value of \$50,000.00.

(4) San Joaquin Light and Power Corporation shall sell the bonds mentioned in subdivisions 2 and 3 preceding at such price, that bonds to the face value of \$300,000.00 shall yield not less than 94 per cent of the face value plus accrued interest, and the remainder of the bonds not less than 95 per cent of the face value plus accrued interest.

(5) The funds to be obtained by San Joaquin Light and Power Corporation from its bondholders by virtue of an increase in the rate of interest from 5 per cent to 6 per cent on Series "B" forty-year first and refunding mortgage gold bonds dated August 1, 1910, plus the proceeds to be derived from the bonds herein authorized to be issued, shall be used for the following purposes:

- (a) To pay two-year collateral trust notes due August 1, 1915.....\$954,000 00
- (b) To pay outstanding notes representing funds borrowed for capital expenditures 838,300 00

(6) San Joaquin Light and Power Corporation shall within ninety days submit to this Commission a financial plan by means of which it proposes to secure funds to defray the cost of necessary extensions, additions and betterments from moneys other than through the sale of bonds.

(7) San Joaquin Light and Power Corporation shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds or other evidences of indebtedness hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds or other evidences of indebtedness during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(8) The authority herein granted shall apply only to such bonds, or to such other evidences of indebtedness as shall have been issued on or before April 1, 1916.

(9) The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of May, 1915.

DECISION No. 2336.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF PACIFIC ELECTRIC LAND COMPANY.

Case No. 136.

Decided May 3, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered in Case No. 135—in the matter of ascertaining the value of the property of Pacific Electric Railway Company—

It is hereby ordered that the above entitled proceeding be, and the same is hereby, dismissed.

Dated at San Francisco, California, this 3d day of May, 1915.

DECISION No. 2337.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF LOS ANGELES INTERURBAN RAILWAY COMPANY.

Case No. 137.

Decided May 3, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered in Case No. 135—in the matter of ascertaining the value of the property of Pacific Electric Railway Company—

It is hereby ordered that the above entitled proceeding be, and the same is hereby, dismissed.

Dated at San Francisco, California, this 3d day of May, 1915.

DECISION No. 2338.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF THE SAN BERNARDINO VALLEY TRACTION COMPANY.

Case No. 138.

Decided May 3, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered in Case No. 135—in the matter of ascertaining the value of the property of Pacific Electric Railway Company—

It is hereby ordered that the above entitled proceeding be, and the same is hereby, dismissed.

Dated at San Francisco, California, this 3d day of May, 1915.

DECISION No. 2339.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF RIVERSIDE AND ARLINGTON RAILWAY COMPANY.

Case No. 139.

Decided May 3, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered in Case No. 135—in the matter of ascertaining the value of the property of Pacific Electric Railway Company—

It is hereby ordered that the above entitled proceeding be, and the same is hereby, dismissed.

Dated at San Francisco, California, this 3d day of May, 1915.

DECISION No. 2340.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF LOS ANGELES PACIFIC COMPANY.

Case No. 140.

Decided May 3, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered in Case No. 135—in the matter of ascertaining the value of the property of Pacific Electric Railway Company—

It is hereby ordered that the above entitled proceeding be, and the same is hereby, dismissed.

Dated at San Francisco, California, this 3d day of May, 1915.

DECISION No. 2341.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF SAN BERNARDINO INTERURBAN RAILWAY COMPANY.

Case No. 141.

Decided May 3, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered in Case No. 135—in the matter of ascertaining the value of the property of Pacific Electric Railway Company—

It is hereby ordered that the above entitled proceeding be, and the same is hereby, dismissed.

Dated at San Francisco, California, this 3d day of May, 1915.

DECISION No. 2342.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF REDLANDS CENTRAL RAILWAY.

Case No. 142.

Decided May 3, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this proceeding being covered in Case No. 135—in the matter of ascertaining the value of the property of Pacific Electric Railway Company—

It is hereby ordered that the above entitled proceeding be, and the same is hereby, dismissed.

Dated at San Francisco, California, this 3d day of May, 1915.

DECISION No. 2343.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF ONTARIO AND SAN ANTONIO HEIGHTS RAILROAD COMPANY.

Case No. 325.

Decided May 3, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter in this proceeding being covered in Case No. 135—in the matter of ascertaining the value of the property of Pacific Electric Railway Company—

It is hereby ordered that the above entitled proceeding be, and the same is hereby, dismissed.

Dated at San Francisco, California, this 3d day of May, 1915.

Decision No. 2344, grade crossing; not printed. See end of volume.

DECISION No. 2345.

**IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF LOS ANGELES AND REDONDO RAILWAY.**

Case No. 143.

Decided May 3, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter in this proceeding being covered in Case No. 135—in the matter of ascertaining the value of the property of Pacific Electric Railway Company—

It is hereby ordered that the above entitled proceeding be, and the same is hereby, dismissed.

Dated at San Francisco, California, this 3d day of May, 1915.

DECISION No. 2346.

**IN THE MATTER OF THE ISSUANCE OF CLEAN BILLS OF LADING BY
RAILROAD AND OTHER TRANSPORTATION COMPANIES.**

Case No. 244.

Decided May 5, 1915.

REPORT OF THE COMMISSION.

After a thorough investigation into the subject-matter of this proceeding the Commission, on September 17, 1914, issued its General Order No. 40, effective October 1, 1914, providing as follows:

“It is hereby ordered that all railroads issue to shippers of carload freight from agency stations a clean bill of lading at the request of the shipper and in such cases to discontinue the practice of noting on bill of lading ‘Shipper’s load and count.’”

“It is further ordered that upon request of shipper of carload freight from a non-agency station, the railroad will send a man to check the loading and issue a clean bill of lading, the expense, except transportation of man to and from point of loading to perform service of checking, to be borne by the shipper.”

In all other respects,

It is hereby ordered that this proceeding be, and the same is, hereby dismissed.

Dated at San Francisco, California, this 5th day of May, 1915.

DECISION No. 2347.

IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN HOME
TELEPHONE COMPANY FOR AUTHORITY TO ISSUE NOTES TO
REFUND CERTAIN OTHER NOTES.

Application No. 1607.

Decided May 5, 1915.

Applicant authorized to renew three promissory notes of an aggregate face value of \$14,500.00 and to pledge \$29,000.00 face value of bonds as security therefor.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application by Southwestern Home Telephone Company of Redlands for authority to issue promissory notes in the sum of \$14,500.00 and to pledge \$29,000.00 of its bonds as collateral security for said notes. It is the purpose to issue the new notes to refund the notes which have already matured.

The affairs of this applicant have been reviewed in previous decisions of this Commission, to which reference is hereby made. In order to preserve the present status of this applicant, I believe the application should be granted. This order will not increase the indebtedness and will merely allow bonds already pledged to remain pledged. The applicant is preparing a reorganization of its finances in accordance with opinions expressed by this Commission in previous decisions. Accordingly, I recommend the following form of order:

ORDER.

Southwestern Home Telephone Company having applied to this Commission for authority to issue promissory notes of the face value of \$14,500.00 and to pledge as collateral security for said notes its bonds of the face value of \$29,000.00, and a hearing having been held and it appearing that the purposes for which it is desired to issue said notes and pledge said bonds are proper purposes under the terms of the Public Utilities Act,

It is hereby ordered that Southwestern Home Telephone Company be granted authority and it is hereby granted authority to issue its promissory notes of the face value of \$14,500.00, and to pledge as collateral security for said notes its bonds of the face value of \$29,000.00.

The authority herein granted to the applicant to issue said notes and to pledge said bonds is granted upon the following conditions and not otherwise:

- (1) The notes herein authorized to be issued shall be issued for the purpose of refunding the following notes:

| | |
|--|------------|
| Note in favor of E. J. Woolberton, dated March 11, 1911----- | \$3,000 00 |
| Note in favor of Mary S. Sargent, dated March 17, 1912----- | 7,000 00 |
| Note in favor of E. M. Isard dated August 30, 1911----- | 4,500 00 |

- (2) The notes herein authorized to be issued shall bear interest at not to exceed 8 per cent per annum and shall mature not later than three years from date.
- (3) The bonds herein authorized to be pledged shall be pledged in such ratio that the face value of the notes herein authorized to be issued, at any time issued and outstanding, shall not be less than 50 per cent of the face value of the bonds pledged.
- (4) Within thirty days after the notes herein authorized to be issued shall have been issued and the bonds herein authorized to be pledged shall have been pledged, the applicant shall report such issue and pledge to this Commission, and shall report also that the notes herein authorized to be refunded have been canceled.
- (5) The authority herein granted to issue said notes and pledge said bonds is conditioned upon the payment of the fee prescribed in the Public Utilities Act.
- (6) The authority herein granted shall apply to such notes as shall have been issued and to such bonds as shall have been pledged on or before December 31, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of May, 1915.

DECISION No. 2348.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF THE PETALUMA AND SANTA ROSA RAILWAY COMPANY.

Case No. 145.

Decided May 5, 1915.

Investigation upon the Commission's own initiative to determine the various elements entering into the value of the physical property of respondent, in connection with which, particular attention is given to multiples used in determining land values, a multiple of 1.25 plus 10 per cent being held to be ample to cover cost of acquiring respondent's right of way within incorporated territory. Respondent also claims an allowance for working capital, which item, though considered in valuations for the purposes of establishing rates, is not included in valuations of this nature which are merely to determine the actual value of respondent's property and not the total amount upon which it is entitled to a return.

Findings of Fact, That the reproduction value of the operative physical property of respondent as of June 30, 1912, is the sum of \$1,550,170.44, and non-operative property, \$60,436.62; that the present value of the operative physical property of respondent as of June 30, 1912, is the sum of \$1,378,716.24, and of non-operative property, \$59,768.97.

E. M. Van Frank, for Petaluma and Santa Rosa Railway Company.

Charles N. Black, for Ford, Bacon & Davis.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

This proceeding was brought on the Railroad Commission's initiative for the purpose of ascertaining various elements entering into the value of the property of the Petaluma and Santa Rosa Railway Company. This property is situated in Sonoma County, California. For the general procedure in these valuation cases and for a general description of the work performed by this Commission's engineering department in these cases, reference is hereby made to the Commission's opinion and findings in Case No. 206, being the matter of ascertaining the value of the property of the Stockton Terminal and Eastern Railroad Company, and Case No. 210, being the matter of ascertaining the value of the property of the Tonopah and Tidewater Railroad Company.

These valuations were begun under section 20 of the Stetson-Eshleman Act, effective February 10, 1911, and continued under the provisions of the Public Utilities Act, effective March 23, 1912. The sections of the Public Utilities Act particularly applicable to this proceeding are sections 47 and 70. As is usual in these cases, I shall confine myself to making findings of fact on specified elements bearing on the question of the value of this company's property, as shown by the evidence in this case, and shall not make a finding on the question of the ultimate value of the property, irrespective of the purpose for which the value is ascertained.

As is usual in these valuation proceedings I shall, in connection with this inquiry, consider the following matters:

1. Organization, construction and operation.
2. Stocks and bonds.
3. Revenues and expenses.
4. Original cost, as defined.
5. Reproduction cost, as defined.
6. Reproduction cost less depreciation, as defined.

I shall first define the three elements of value which I propose to find:

The term "original cost" means the original book cost, and is defined as the actual expenditures chargeable to capital account in accordance with the Interstate Commerce Commission's classification, in cash or its equivalent in terms of cash, by the public utility for its operative property in the State of California, as of the date of the valuation.

The term "reproduction cost" is defined as the estimated cost in cash of acquiring the operative right of way and real estate and of reproducing, in the condition in which it was acquired, the other physical property of the public utility in the State of California, as of the date of the valuation; to which are added overhead expenditures for engineering, law, interest and other similar items.

The term "reproduction cost less depreciation" is defined as the reproduction cost less the diminution in the value of the physical elements of the property, due to use, age, obsolescence, inadequacy, or other causes, this diminution being called depreciation, and plus the increase in the value of the physical elements of the property, due to age or other causes, this increase being called appreciation.

In accordance with this Commission's order dated October 17, 1912, the Petaluma and Santa Rosa Railway Company on May 1, 1913, filed an inventory of its property, together with an estimate of its reproduction cost and reproduction cost less depreciation, as of June 30, 1912. A copy of the company's final summary sheet is attached to this opinion and marked Exhibit "A."

On September 1, 1914, the Commission's engineering department submitted to the Commission its detailed valuation report as of June 30, 1912, a copy of which was furnished to the company. A copy of the final summary sheet of this report is attached hereto as Exhibit "B."

Prior to the hearing upon this proceeding, the company's engineer took up with the engineering department of the Commission certain objections to its valuation report, and in all cases where physical quantities were at issue an agreement was reached. On certain points, however, the engineering department could not agree with the company and those differences were presented at the hearing held January 25, 1915, at which the railroad company and the engineering firm in charge of its valuation were represented. Subsequent to the hearing the Commission's engineering department submitted to the Commission a supplemental report embodying the changes agreed upon, and a copy of this supplemental report was also furnished the company. The final summary sheet of the engineering department's supplemental report is attached hereto and marked Exhibit "C." On March 6, 1915, the Commission was advised by letter that the company could not agree with the disposition of certain items in the supplemental report, these items being the same to which objections were made by the company at the hearing on January 25, 1915. These objections will hereinafter be considered in detail. A copy of the revised final summary sheet containing the Commission's finding in this case is attached hereto and marked Exhibit "D."

1. Organization, Construction and Operation.

The Petaluma and Santa Rosa Railway Company was incorporated under the laws of California on May 22, 1903. The proposed route of

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this railway was from Petaluma northerly to Santa Rosa, thence northwesterly to Forestville, and from Santa Rosa in a southwesterly direction to Sebastopol. This route, however, was not followed. The constructed line runs from Petaluma to Sebastopol, thence to Santa Rosa and Forestville. The following table presents the mileage:

| Division | From— | To— | Track miles | | |
|---------------------|---------------|---------------|-------------|------------|-------|
| | | | Main track | Side track | Total |
| 1 ----- | Petaluma----- | Sebastopol-- | 16.71 | 2.95 | 19.66 |
| 2 ----- | Sebastopol-- | Santa Rosa-- | 7.75 | 1.22 | 8.97 |
| 3 ----- | Sebastopol-- | Forestville-- | 7.13 | 1.63 | 8.76 |
| Totals ----- | ----- | ----- | 31.59 | 5.80 | 37.39 |

In addition to the operation of an electric railway, this company operates steamers between Petaluma and San Francisco, making two round trips each day. Its marine equipment consists of two stern-wheel steamers, and also a barge which is used intermittently as business may require. With the exception of approximately two miles of line, this road was placed in operation in November, 1904. The railway traverses an agricultural district in the lower foothills of the Coast Range in Sonoma County, and operates in a comparatively level country, with no unusual physical characteristics. Its total length of curved line amounts to 8.96 miles, or approximately 28 per cent of the total mileage, and its maximum grade is 3 per cent. Power is distributed at 600 volts direct current, by overhead trolley, and the construction is simple span suspension. In grading the roadbed no heavy earthwork was necessary. The rail is 70-pound A.S.C.E. placed on redwood ties; the track is well ballasted with crushed rock, and in general, the road was well built and is well maintained.

For passenger service the company usually operates single cars, making twelve trips daily and fifteen on Sunday, between Petaluma and Sebastopol; nineteen trips daily and nineteen on Sunday, between Sebastopol and Santa Rosa; and sixteen trips each day between Sebastopol and Forestville. Freight trains are run as extras, the number depending on the traffic, the average being two or three each way per day. The company purchases all power from the Pacific Gas and Electric Company, and in 1912 entered into a new contract with that company. Through this change the cost of power has been very materially reduced.

2. Stocks and Bonds.

The company's articles of incorporation authorize the issue of 10,000 shares of capital stock of a par value of \$100.00 each, representing a total par value of \$1,000,000.00.

These 10,000 shares were issued as follows: 40 shares to the incorporators; 8,960 shares on September 28, 1903, for options on two small horsecar lines in Petaluma and Santa Rosa, franchises in Sonoma County, Petaluma and Sebastopol, rights of way and options for other rights of way, real estate, terminals, etc., and \$168,000.00 in cash; 900 shares were sold in November, 1904, at \$40.00 per share; and the disposition of the remaining 100 shares is not known.

On November 17, 1903, a first mortgage of \$1,000,000.00 on the entire property to secure 5 per cent twenty-year first mortgage bonds, of date March 1, 1904, was authorized. In the following December, \$500,000.00 of these bonds were contracted to be sold at 90 per cent of their face value. On April 18, 1904, the sale of a total of \$900,000.00 of these bonds was authorized, but not all of them were sold. On April 1, 1905, a second mortgage of \$250,000.00 was authorized, and 6 per cent ten-year second mortgage bonds were issued. Part of these bonds were exchanged at 97½ for 6 per cent certificates of indebtedness of par value of \$100,000.00 which had been authorized February 2, 1905. Toward the end of 1905, small lots of the first mortgage bonds were sold at 95 per cent of their face value and second mortgage bonds were sold at face value and accrued interest.

The San Francisco disaster of 1906 and the sale of the California Northwestern Railroad to the Southern Pacific and Santa Fe, together with the financial stringency of 1907, put this company in financial difficulties, and in December, 1907, the 10,000 shares of capital stock were assessed \$10.00 per share. The full \$100,000.00 was paid in on this assessment. There is no record of any dividends having been paid on the common stock.

The following table shows the status of the company's securities from June 30, 1908, to June 30, 1912, the data being obtained from the company's annual reports to this Commission:

| Item No. | Item | Year ending June 30th | | | |
|----------|---|-----------------------|--------------|--------------|--------------|
| | | 1909 | 1910 | 1911 | 1912 |
| 1 | Funded debt, first mortgage bonds (outstanding)----- | \$698,000 00 | \$697,000 00 | \$697,000 00 | \$694,000 00 |
| 2 | Funded debt, second mortgage bonds (outstanding)----- | 250,000 00 | 250,000 00 | 250,000 00 | 250,000 00 |
| 3 | Floating debt, notes outstanding----- | 38,000 00 | 38,000 00 | 38,000 00 | 28,000 00 |
| 4 | Total debt outstanding----- | \$986,000 00 | \$985,000 00 | \$985,000 00 | \$972,000 00 |
| 5 | Total debt outstanding per mile----- | 26,757 12 | 26,729 96 | 26,636 01 | 26,038 03 |
| 6 | Interest paid----- | 52,211 65 | 52,161 69 | 52,161 69 | 51,787 63 |
| 7 | Capital stock outstanding----- | 1,000,000 00 | 1,000,000 00 | 1,000,000 00 | 1,000,000 00 |
| 8 | Total securities outstanding----- | 1,986,000 00 | 1,985,000 00 | 1,985,000 00 | 1,972,000 00 |
| 9 | Total securities outstanding per mile----- | 53,894 16 | 53,867 02 | 53,677 65 | 52,826 13 |
| 10 | Additions, improvements and deductions--railway----- | 5,869 39 | 5,882 82 | 13,363 82 | 27,442 79 |
| 11 | Additions, improvements and deductions--marine----- | 667 07 | 2,727 52 | 8,648 83 | 8,276 33 |

¹ \$10,000 was charged to depreciation as a blanket charge, covering both railway and marine departments.

3. Revenue and Expenses.

About 57 per cent of the company's total revenue is derived from the railway traffic and 43 per cent from marine traffic. Sixty-six per cent of the railway revenue results from freight traffic. The larger part of the total freight revenue is derived from the water traffic, and a large part of all freight is transportation of eggs and sundry poultry supplies.

The passenger rates appear low, averaging about 2 cents per mile, the maximum one-way fare being 50 cents.

For the five years ending June 30, 1913, the gross income less operating expenses shows a consistent increase from \$34,927.60 for 1909 to \$111,712.59 for 1913. Deducting the item of \$17,450.00 received by the company as a bonus on the newly constructed branch line to Two Rock, the corresponding figure for 1914 amounts to \$96,559.75, or a decrease of \$15,152.84 over the preceding year.

The surplus, it will be noted, on June 30, 1914, was \$94,298.97, which is an increase of \$153,452.23 over a deficit for the year 1909 of \$59,153.25.

The following table presents various revenue, expense and traffic statistics for the years ending June 30, 1912 and 1914:

| Item No. | Item | Year ending | |
|----------|---|---------------|---------------|
| | | June 30, 1912 | June 30, 1914 |
| 1 | Mileage—main tracks ----- | 31.59 | 37.02 |
| | <i>Operating Revenue.</i> | | |
| 2 | Railway—passenger train service----- | \$98,924 05 | \$95,736 09 |
| 3 | Railway—freight train service----- | 71,782 95 | 77,034 40 |
| 4 | Railway—total train service----- | 170,707 00 | 172,770 49 |
| 5 | Steamer—passenger ----- | 3,544 45 | 3,613 48 |
| 6 | Steamer—freight ----- | 123,510 13 | 119,268 03 |
| 7 | Steamer—total ----- | 127,054 58 | 122,881 51 |
| 8 | Other revenue and deductions----- | 5,161 78 | 13,525 82 |
| 9 | Total operating revenue----- | 302,923 36 | 301,663 43 |
| | <i>Operating Expense.</i> | | |
| 10 | Maintenance of way and structures----- | \$13,070 59 | \$16,954 49 |
| 11 | Maintenance of equipment—railway----- | 11,868 62 | 10,514 52 |
| 12 | Maintenance of equipment—marine----- | 4,359 23 | 2,681 38 |
| 13 | Traffic ----- | 6,380 43 | 6,908 99 |
| 14 | Transportation—railway ----- | 77,288 39 | 65,199 95 |
| 15 | Transportation—marine ----- | 70,240 50 | 89,165 35 |
| 16 | General ----- | 19,506 48 | 18,809 00 |
| 17 | Total operating expense----- | 202,714 24 | 210,233 68 |
| 18 | Per cent operating revenues to operating expenses ----- | 66.9% | 69.69% |
| 19 | Net operating revenue----- | \$100,209 12 | \$91,429 75 |
| 20 | Miscellaneous income ----- | 1,980 00 | 22,580 00 |
| 21 | Gross income less operating expenses----- | 102,189 12 | 114,009 75 |
| 22 | Taxes ----- | 6,860 43 | 8,842 46 |
| 23 | Interest ----- | 51,787 63 | 55,482 12 |
| 24 | Total deductions from gross income----- | 58,648 06 | 64,324 58 |
| 25 | Net income ----- | 43,541 06 | 49,685 17 |
| 26 | Profit and loss adjustments----- | | 16,355 96 |
| 27 | Surplus or deficit at end of year----- | 6,151 13 | 94,298 97 |

| Item No. | Item | Year ending | |
|----------|--|---------------|---------------|
| | | June 30, 1912 | June 30, 1914 |
| 28 | Operating revenue per car mile—railway only— | \$0.29 | \$0.2712 |
| 29 | Operating expenses per car mile—railway only— | .209 | .16037 |
| 30 | Freight railway earnings ton mile—railway only ----- | .069 | |
| 31 | Freight railway expenses ton mile—railway only ----- | .041 | |
| 32 | Fare passengers carried—railway only----- | 754,994 | 752,512 |
| 33 | Average fare—revenue passengers only----- | \$0.13 | \$0.12643 |
| 34 | Tons of freight moved—railway only----- | 61,812 | |
| 35 | Tons of freight moved 1 mile—railway only---- | 1,116,055 | |
| 36 | Average loading per car tons—railway only----- | 7.26 | |
| 37 | Average haul of freight—railway only----- | 18.055 | |
| 38 | Average cars per freight train—railway only---- | 8.071 | |

The above statistics are taken from the annual reports of this company to the Commission.

4. Original Cost.

The records of the company having been destroyed in the San Francisco fire of April, 1906, the original cost was not to be ascertained. There was, however, a trial balance as of February 28, 1905, about three months after operation commenced, which was not too charred to be legible. This balance shows a total of \$1,662,254.74 charged to road and equipment, including "franchises," amounting to \$902,310.02. As no analysis could be made or verified, these figures can not be considered of any more importance than as representing a maximum book cost to that date and which might include amounts not properly chargeable to original cost, as indicated by the amount charged to "franchises."

The original cost of certain items was, however, found and has been utilized by the engineering department. These data are mentioned in the department's report.

5. Reproduction Cost.

Under this heading the company prior to, and at the hearing in this proceeding, made objections to certain parts of the report as submitted by the engineering department. As hereinbefore mentioned, a number of items to which objections were made prior to the hearing have been fully covered by the supplemental report, and I shall now consider the other objections in the order mentioned by the company in its letter of March 6, 1915.

(a) Engineering.

For this item the engineering department allowed 5 per cent of the total of classes 3 to 39, inclusive, which, as shown by the supplemental report, amounts to \$40,653.89. In addition to this amount, engineering in connection with purchase of land is covered in the allowance for the cost of acquisition of lands. The company claimed that this amount is

inadequate and that an allowance should be made of 10 per cent on classes 3 to 39, inclusive, and $7\frac{1}{2}$ per cent on classes 43 to 48, inclusive, except class 44—freight train cars—on which $2\frac{1}{2}$ per cent is asked. With these claims, however, the engineering department could not agree.

For the allowance on the total of classes 3 to 39, inclusive, the position of the engineering department is based upon the actual costs as found for a considerable number of railroads both within and outside of this State. Among these there are carriers fairly comparable with the road here under consideration. At the hearing the representative of the engineering firm which made the valuation report for the company claimed that it is practically impossible to secure the services of an engineering firm which would undertake the construction of such a road for less than 5 per cent and expenses, and such an allowance would be equal to a total of 10 per cent. It is well known to this Commission that such charges for engineering services in a number of construction undertakings have been paid by public utilities. But it is also known that one reason why the large engineering firms can obtain such allowances is that they are frequently intimately connected with or branches of large financial institutions; and that the financial agent in some cases simply stipulates with the public utility that a certain engineering firm must be employed on terms fixed, in effect, by the financial agent. In this particular case, however, the road was not constructed in that manner, and it is a fact that the total engineering expenditures actually incurred during the construction of this property were very much less than the total sum allowed by the Commission's engineering department in its reproduction estimate. No testimony was introduced by the company which would lead me to believe that the allowance made by the department for engineering would not be amply sufficient to reconstruct this line within the assumed construction period of one year, and this construction period was admitted by the company to be fair. For the equipment, classes 43 to 48, inclusive, the engineering department made no flat percentage allowance for engineering, as such services are properly included in the reproduction cost estimate of the individual items of equipment.

I am satisfied that the amount allowed for engineering by the Commission's engineering department in its revised estimate is fair and reasonable, and I shall accordingly allow no increase in this item.

(b) Right of Way.

In this account the company attacked the multiple used by the engineering department for right of way within corporate limits of various cities. For such right of way the company claims a multiple of 1.50 should be allowed. The engineering department in its report allowed 1.25 plus 10 per cent for expenses, which is equivalent to $1.37\frac{1}{2}$.

If the lands owned by the company were merely strips of right of way in the outskirts of the towns, the multiple might have been as high as the company claimed, but the engineering department includes large areas of terminal lands in this classification, for which the company was not called upon to pay excessive prices. The records of the engineering department contain the analysis of some 1,140 miles of recently constructed railroad rights of way in California, the total cost of which is \$8,211,632.65, and the market value of the land for ordinary purposes, at the time of purchase, was \$6,293,862.89, which would show a multiple of 1.30. The incidental expense in connection with the acquisition of 844 miles of this right of way was \$648,329.00, which is 9.14 per cent of the amount paid to the grantors. Practically 88 per cent of the costs of lands was for property located within incorporated city limits and the multiple on this classification was approximately 1.25. Therefore, I am satisfied that for the lands in question the multiple of 1.25 plus 10 per cent expenses is amply sufficient if multiples and costs of acquisition are to be added to the fair average market value as estimated from the fair average market value of land in the vicinity having a similar character.

I must draw attention, however, at this point, to the fact that the Supreme Court of the United States has definitely denied the right to use multiples and conjectural costs of acquisition and consequential damages when ascertaining the value of railroad properties for rate fixing purposes. In the famous Minnesota Rate Case, 230 U. S. 352, Justice Hughes, at page 455, expresses the unanimous view of the court as follows:

"Assuming that the company is entitled to a reasonable share in the general prosperity of the communities which it serves, and thus to attribute to its property an increase in value, still the increase so allowed, apart from any improvements it may make, can not properly extend beyond the fair average of the normal market value of land in the vicinity having a similar character. Otherwise we enter the realms of mere conjecture. We therefore hold that it was error to base the estimates of value of the right of way, yards and terminals upon the so-called 'railway value' of the property. The company would certainly have no ground of complaint if it were allowed a value for these lands equal to the fair average market value of similar land in the vicinity, without additions by the use of multipliers, or otherwise, to cover hypothetical outlays. The allowances made below for a conjectural cost of acquisition and consequential damages must be disapproved; and, in this view, we also think it was error to add to the amount taken as the present value of the lands the further sums, calculated on that value, which were embraced in the items of 'engineering, superintendence, legal expenses,' 'contingencies' and 'interest during construction.' "

It is, of course, impossible to "reproduce" land in the sense that other physical elements of railroad property can be reproduced and their reproduction cost determined. If it is found that land originally cost more or less than the present market value, those facts will, of course, be shown in connection with the finding as to the original cost of the property.

In another proceeding now pending, I shall consider this question in greater detail. For the present, I shall merely draw attention to the fact that the arbitrary additions to the present market value of this company's lands, by reason of applying multiples, cost of acquisition and interest, amount to \$123,102.71. If in any future case the question of the value of this property for some particular purpose should become relevant, the Commission may see fit to hold that this sum should be deducted from the grand totals shown in Exhibit "D" under the headings "reproduction cost" and "reproduction cost less depreciation."

(c) *Working Capital.*

This is an item which was not included in the estimate of the engineering department. The company claims an allowance of \$49,200.00 on the ground that working capital is "essential to have to carry on business." The classifications as prescribed by the Interstate Commerce Commission for expenditures for road and equipment do not provide any account for working capital.

When the allowance for interest during construction is made it is assumed that the total amount of money expended for capital account has been employed one-half the estimated construction period. This, as is maintained by the engineering department, automatically presupposes that any time during construction there must be sufficient capital on hand to meet all charges. Working capital during the construction period is thus provided for. The company's estimate of \$49,200.00 is for working capital for the going concern. This claim will receive attention if this company at any time hereafter appears before the Commission in a proceeding affecting its value as a going concern. In establishing rates, the Commission always gives consideration to the question of working capital. I concur with the engineering department that, bearing in mind clearly the precise nature of the findings which are being made herein, an allowance for the item "working capital" should not be included in the totals making up the values in this case.

(d) *Interest.*

For the account interest the engineering department allowed 3 per cent on the total of classes 3 to 52, inclusive, and 5 per cent on class 2. The company in its valuation estimated the allowance for interest at $3\frac{1}{2}$ per cent of the total of classes 1 to 51; $3\frac{1}{2}$ per cent on class 50, and $3\frac{1}{2}$ per cent on part of class 52. While there is evidently some difference in

the method of calculating this allowance, it appears that both the company and the engineering department agreed upon the assumption that it would take one year to reproduce this railway and also that the allowance for the account interest should be based, at a certain interest rate per annum, upon the theory that the total amount expended on the capital accounts would be tied up during one-half the construction period. The real point of difference, therefore, is not in the theory or in the estimated construction period, but in the interest rate. The company claims a rate of 7 per cent per annum, while the engineering department estimates that money could be secured for this road at 6 per cent per annum. The best evidence on this point, it appears to me is the fact that there are two mortgages on this property, the first mortgage paying 5 per cent interest and the second paying 6 per cent. The first mortgage bonds sold at from 90 to 95 per cent of their face value and the second mortgage bonds sold at par and accrued interest. It would not be reasonable in these findings to allow the higher rates of interest caused by merely temporary financial stringency. I am satisfied to allow the sum estimated for interest during construction to stand as shown in the engineering department's report.

(c) Preliminary and Organization Expenses.

These items in the report of the engineering department are covered by account 44, "Miscellaneous," for which the allowance of 2 per cent of classes 3 to 51, inclusive, or a total of \$22,599.23, has been made. Under the Interstate Commerce Commission's classifications this account covers organization expenses, including the payment of all necessary fees, the cost of printing certificates of stocks and bonds, payments to trustees and expenses incurred, and disposal of securities, salaries and expenses of executives and general officers of the road under construction, of clerks in general offices engaged on construction accounts or work, rent and repair of general offices when rented, and furniture and office expenses; also all items of a special or incidental nature that can not properly be charged to any other account.

The company adopted a different method from that of the engineering department for estimating the amount properly chargeable to this account, the details of which appear in Exhibit No. 2, filed by the company, January 25, 1915. This exhibit presents a total for this item made up of various sub-totals, some of which, such as interest and franchises, appear in other accounts in the estimate by the engineering department. It must also be considered that the larger portion of the total for this account as allowed by the company is made up of purely arbitrary estimates, while the percentage allowance made by the engineering department is based upon facts and known percentages on a considerable number of actual construction undertakings of this character. The bases for the department's estimates were fully gone

into at the hearing. In my opinion, the percentage allowance, resulting in a total of \$22,599.23 for this account, is ample and no increase should be granted.

(f) *Franchise Cost.*

In the original valuation the engineering department reported that the company owned eight operative franchises. Six of these were grants acquired through ordinance and the other two were so-called "rights" which were considered as the "rights" acquired by the company with its purchase of the two original horse-car lines formerly operating in Petaluma and Santa Rosa. The acceptance of these rights as items to be included in the valuation was based on the statement made by the company's valuation engineers in their report to this Commission. The wording in this report is as follows:

"Franchises: Purchase of Petaluma horse-car line for its rights, \$2,790.00; purchase of Santa Rosa horse-car line for its rights, \$14,963.00, totaling \$17,753.00."

The engineering department assumed that in the purchase of these two horse-car lines there were certain rights acquired which were of value to the present operating company, and, therefore, estimated these rights as having values analogous to franchise values. It now appears, however, as stated in the company's letter hereinbefore referred to, that,

"this company is not now and never has operated under the two franchises so purchased, but was put to the expense of acquiring two new franchises in Santa Rosa."

The value given these two franchises should therefore be deducted, leaving the values of only the six franchises. The following computation shows that the elimination of the two "rights" results in a reduction of \$762.76 from the estimated reproduction cost of franchises appearing in the supplemental report of the engineering department:

| | | |
|---|------------|------------|
| Advertising application, each..... | \$125 00 | |
| Payment to city or county each..... | 100 00 | |
| Advertising granted ordinance, each..... | 125 00 | |
| | | \$350 00 |
| Contingencies, 5 per cent..... | \$17 50 | |
| Interest, one year at 5 per cent..... | 18 38 | |
| | | 35 88 |
| Approximate cost of each franchise..... | | \$385 88 |
| Six franchises operative at the present time, estimated total cost at \$385.88 each..... | | \$2,315 28 |
| Cost of two elections at Petaluma at \$600.00 each..... | \$1,200 00 | |
| Plus contingencies at 5 per cent..... | 60 00 | |
| Plus interest on above total for 1 year at 5 per cent..... | 63 00 | |
| | | 1,323 00 |
| Total cost of operative franchises..... | | \$3,638 28 |
| Valuation formerly fixed on franchises..... | | 4,401 04 |
| Reduction in value as per above..... | | \$762 76 |

As also stated in the company's letter, the physical property and real estate acquired in the purchase of the two horse-car lines were sold, leaving a net cost of \$13,465.03 to the present company. This sum the company claims should be added to the estimate of franchise costs. Since the property acquired by this company in these purchases has been disposed of, its original value can not be included in an estimate of reproduction cost as of June 30, 1912, and such property as may still be in existence is allowed in another account.

In accordance with the above revision in franchise values, resulting in a reduction of \$762.76, the new totals to be used for Interstate Commerce Commission accounts 2 and 3 are as follows:

| | Area | Market value | Reproduction cost |
|--|----------------|---------------------|---------------------|
| Operative— | | | |
| Account 2—Railway and station grounds. | 198.903 | \$211,836 00 | \$347,589 14 |
| Non-operative— | | | |
| Account 3—Real estate | 50.653 | 57,741 00 | 57,741 00 |
| Grand totals | 249.556 | \$269,577 00 | \$405,330 14 |

With the exception of the above six points of contention all other objections are covered by the supplemental report of the engineering department.

After a careful consideration of all changes and the evidence in this case bearing on the matter of reproduction cost, I find that the reproduction cost, as that term has hereinbefore been defined, of the operative property of the Petaluma and Santa Rosa Railway Company, as of June 30, 1912, is the sum of \$1,550,170.44. The reproduction cost of the non-operative property amounts to \$60,436.62, resulting in a total for both operative and non-operative property of \$1,610,607.06.

I find also that the reproduction cost of the entire property, both operative and non-operative, if the "market value" of lands is used without the addition of multipliers and other arbitrary percentages, is the sum of \$1,487,504.35.

6. Reproduction Cost Less Depreciation.

The company at the hearing stated that its appraisal had been made with the understanding that the values found might be used for the purpose of establishing rates, and under this theory had depreciated only those elements of property, which are not taken care of through the normal operating expenses. With this understanding the company made objections to the methods and theories applied by the engineering department in determining the reproduction cost less depreciation. However, these objections were withdrawn when it was understood that the purpose of this proceeding was to find certain elements of value only, as has heretofore been stated in this decision.

The changes which have been made in the engineering department's estimate of the reproduction cost made it necessary to revise the corresponding figures under this heading. The details of these changes are set forth in the supplemental report made by the engineering department subsequent to the hearing, a copy of which was furnished to the company. The changes as shown in the supplemental report, together with the items above mentioned, have made necessary the revised totals which appear in Exhibit "D" attached to this opinion.

I find, therefore, that the reproduction cost less depreciation, as that term has hereinbefore been defined, of the operative property of the Petaluma and Santa Rosa Railway Company as of June 30, 1912, is the sum of \$1,378,716.24, and the reproduction cost less depreciation of the non-operative property amounts to \$59,768.97, resulting in a total for both operative and non-operative property of \$1,438,485.21.

I find also that the reproduction cost less depreciation of the entire property, both operative and non-operative, if the "market value" of lands is used without the addition of multipliers and other arbitrary percentages, is the sum of \$1,315,382.50.

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of May, 1915.

EXHIBIT "A."

Owning company, Petaluma and Santa Rosa Ry.; operating company, same. Valuation as of June 30, 1912. Submitted with report of A. H. Rich. Date compiled, April 19, 1913. Main line first track, 31.59 miles; yard tracks, sidings, etc., 5.74 miles; total, 37.33 miles.

| Class No. | Form No. | I. C. C. Act No. | Classes | Original cost | Reproduction value | Cond. per cent. | Present value |
|-----------|----------|------------------|--|---------------|--------------------|-----------------|----------------|
| 40 | 1 | 1 | Engineering | | \$86,079 96 | | \$86,079 93 |
| 1 | 1 | 2 | Right of way | | 388,732 00 | | 388,732 00 |
| 2 | 2 | 3 | Other land used in electric railway operations | | 66,421 00 | | 66,421 00 |
| 3 | 3 | 4 | Grading | | 91,932 82 | | 103,986 34 |
| 4 | 4 | 5 | Ballast | | 116,252 23 | | 127,861 88 |
| 5 | 5 | 6 | Ties | | 71,331 30 | | 71,331 30 |
| 6 | 6 | 7 | Rails | | 168,186 26 | | 156,392 66 |
| 7 | 7 | 7 | Track fastenings and joints | | 24,235 73 | | 22,141 74 |
| 8 | 8 | 8 | Special work | | 4,772 40 | | 3,014 52 |
| 9 | 9 | 8 | Frogs and switches | | 12,296 75 | | 11,195 23 |
| 10 | 10 | 9 | Underground construction | | | | |
| 11 | 11 | 10 | Paving | | 27,617 95 | | 27,617 95 |
| 12 | 12 | 11 | Tracklaying and surfacing | | 70,081 93 | | 63,073 73 |
| 13 | 13 | 12 | Roadway tools | | 1,118 23 | | 1,118 23 |
| 14 | 14 | 13 | Tunnels | | | | |
| 15 | 15 | 14 | Elevated structures and foundations | | | | |
| 16 | 15 | 15 | Steel bridges and trusses | | | | |
| 17 | 16 | 15 | Pile and frame trestles | | 27,070 46 | | 27,070 46 |
| 18 | 17 | 15 | Culverts | | 5,881 57 | | 5,881 57 |
| 19 | 18 | 16 | Fences and cattle guards | | 26,032 82 | | 26,032 82 |
| 20 | 19 | 16 | Crossings and signs | | 8,636 81 | | 9,237 34 |
| 21 | 20 | 17 | Interlocking plants | | | | |
| 22 | 21 | 17 | Signal apparatus | | | | |
| 23 | 22 | 18 | Telegraph and telephone lines | | 2,135 92 | | 2,135 92 |
| 24 | 23 | 19 | Poles and fixtures | | 52,104 68 | | 52,104 68 |
| 25 | 24 | 20 | Underground conduits | | | | |
| 26 | 25 | 21 | Transmission system | | | | |
| 27 | 26 | 22 | Distribution system | | 85,968 14 | | 85,968 14 |
| 28 | 27 | 23 | Dams, canals and pipe lines | | | | |
| 29 | 28 | 24 | Power plant buildings | | | | |
| 30 | 29 | 25 | Sub-station buildings | | 9,279 00 | | 9,279 00 |
| 31 | 30 | 26 | General office buildings | | 4,841 55 | | 4,841 55 |
| 32 | 31 | 27 | Shops and car houses | | | | |
| 33 | 32 | 28 | Stations and waiting rooms | | 17,414 50 | | 17,414 50 |
| 34 | 33 | 28 | Miscellaneous buildings | | 14,033 10 | | 14,033 10 |
| 35 | 34 | 29 | Docks and wharves | | 5,536 60 | | 5,536 60 |
| 36 | 35 | 30 | Power plant equipment | | | | |
| 37 | 35 | 31 | Sub-station equipment | | 3,624 00 | | 3,624 00 |
| 38 | 37 | 32 | Shop equipment | | 7,337 85 | | 7,337 85 |
| 39 | 38 | 33 | Park and resort property | | | | |
| 41 | 34 | | Cost of road purchased | | | | |
| 42 | 42 | | Injuries and damages | | 4,304 00 | | 4,304 00 |
| 43 | 39 | 35 | Cars | | 51,987 00 | | 36,787 00 |
| 44 | 40 | 35 | Freight train cars | | 63,140 00 | | 50,683 00 |
| 45 | 41 | 36 | Floating equipment | | 95,026 29 | | 50,986 29 |
| 46 | 42 | 36 | Electric locomotives | | 9,377 50 | | 6,689 50 |
| 47 | 43 | 37 | Electric equipment of cars | | 43,212 00 | | 28,624 00 |
| 48 | 44 | 38 | Other rail equipment | | 2,401 00 | | 1,537 00 |
| 49 | 45 | 39 | Miscellaneous equipment | | 61,416 54 | | 61,801 54 |
| 50 | 46 | 40 | Law expenses | | 7,824 00 | | 7,824 00 |
| 51 | 43 | 43 | Taxes | | 5,528 67 | | 5,528 67 |
| 52 | 46 | 44 | Miscellaneous | | 136,122 00 | | 136,122 00 |
| 53 | 41 | | Interest, $3\frac{1}{2}$ per cent, classes 1 to 51, inclusive | | 61,573 73 | | 61,573 73 |
| 55 | 47 | | Stores and supplies on hand for use in California | | 12,665 00 | | 12,665 00 |
| | | | Contingencies, $7\frac{1}{2}$ per cent, classes 1 to 52, inclusive | | 142,152 86 | | 142,152 86 |
| | | | Totals | | \$2,111,763 15 | | \$2,016,165 66 |
| | | | Average per mile for main track | | 66,849 10 | | 63,823 00 |
| | | | Working capital other than stores and supplies | | 49,200 00 | | 49,200 00 |
| | | | Going value and good will | | 110,057 00 | | 110,057 00 |
| | | | Grand totals | | \$2,271,020 15 | | \$2,175,422 66 |

EXHIBIT "B."

Owning company, Petaluma and Santa Rosa Ry. Co.; operating company, same; operating division, railway and marine, valuation unit, entire system, marine; San Francisco to Petaluma; railway; Petaluma to Santa Rosa and Forestville; San Francisco and Sonoma counties. Valuation as of June 30, 1912.

Submitted with report of H. G. Weeks. Date compiled, May, 1914. Main line first track, 31.59 miles; yard tracks, sidings, etc., 5.80 miles; total, 37.39 miles.

| Class No. | Form No. | I. C. C. Acct. No. | Classes | Original cost | Reproduction value | Cond. per cent. | Present value |
|-----------|----------|--------------------|--|---------------|--------------------|-----------------|----------------|
| 40 | 1 | 1 | Engineering, 5 per cent of classes 3 to 39. | | \$39,602 95 | 100 | \$39,602 95 |
| 1 | 1 | 2 | Right of way. | | 345,344 81 | 100 | 345,344 81 |
| 2 | 2 | 3 | Other land used in electric railway operations | | | | |
| 3 | 3 | 4 | Grading | | 83,689 09 | 106 | 88,741 92 |
| 4 | 4 | 5 | Ballast | | 82,460 15 | 100 | 82,460 15 |
| 5 | 5 | 6 | Ties | | 62,139 39 | 60 | 37,283 62 |
| 6 | 6 | 7 | Rails | | 167,553 29 | 87 | 145,815 25 |
| 7 | 7 | 7 | Track fastenings and joints | | 21,451 43 | 78 | 19,102 43 |
| 8 | 8 | 8 | Special work | | 2,806 37 | 60 | 1,695 08 |
| 9 | 9 | 8 | Frogs and switches | | 8,510 39 | 90 | 7,689 02 |
| 10 | 10 | 9 | Underground construction | | | | |
| 11 | 11 | 10 | Paving | | 22,043 89 | 86 | 18,851 08 |
| 12 | 12 | 11 | Tracklaying and surfacing | | 61,003 43 | 85 | 51,852 92 |
| 13 | 13 | 12 | Roadway tools | | 1,050 82 | 80 | 840 64 |
| 14 | 14 | 13 | Tunnels | | | | |
| 15 | 15 | 14 | Elevated structures and foundations | | | | |
| 16 | 16 | 15 | Steel bridges and trusses | | | | |
| 17 | 17 | 15 | Pile and frame trestles | | 28,063 93 | 56 | 15,719 25 |
| 18 | 18 | 15 | Culverts | | 6,133 92 | 86 | 5,247 00 |
| 19 | 19 | 16 | Fences and cattle guards | | 23,691 95 | 77 | 18,204 44 |
| 20 | 20 | 16 | Crossings and signs | | 7,861 77 | 86 | 6,766 19 |
| 21 | 21 | 17 | Interlocking plants | | | | |
| 22 | 22 | 17 | Signal apparatus | | | | |
| 23 | 23 | 18 | Telegraph and telephone lines | | 2,324 21 | 55 | 1,283 46 |
| 24 | 24 | 19 | Poles and fixtures | | 56,993 00 | 52 | 29,355 92 |
| 25 | 25 | 20 | Underground conduits | | | | |
| 26 | 26 | 21 | Transmission system | | | | |
| 27 | 27 | 22 | Distribution system | | 88,199 28 | 70 | 61,449 34 |
| 28 | 28 | 23 | Dams, canals and pipe lines | | | | |
| 29 | 29 | 24 | Power plant buildings | | | | |
| 30 | 30 | 25 | Sub-station buildings | | 6,604 23 | 74 | 4,887 13 |
| 31 | 31 | 26 | General office buildings | | 4,673 97 | 86 | 4,035 15 |
| 32 | 32 | 27 | Shops and car houses | | 10,194 36 | 92 | 9,365 69 |
| 33 | 33 | 28 | Stations and waiting rooms | | 20,544 28 | 87 | 17,886 30 |
| 34 | 34 | 28 | Miscellaneous buildings | | 5,189 12 | 87 | 4,523 30 |
| 35 | 35 | 29 | Docks and wharves | | 4,933 52 | 90 | 4,412 66 |
| 36 | 36 | 30 | Power plant equipment | | | | |
| 37 | 37 | 31 | Sub-station equipment | | 3,420 58 | 84 | 2,873 29 |
| 38 | 38 | 32 | Shop equipment | | 7,662 72 | 82 | 6,244 82 |
| 39 | 39 | 33 | Park and resort property | | | | |
| 40 | 40 | 34 | Cost of road purchased | | | | |
| 41 | 41 | 34 | Injuries and damages, $\frac{1}{2}$ per cent, classes 3 to 49. | | 5,438 61 | 100 | 5,438 61 |
| 42 | 42 | 35 | Cars | | 49,585 00 | 68 | 33,718 00 |
| 43 | 43 | 35 | Freight train cars | | 51,740 00 | 94 | 48,523 00 |
| 44 | 44 | 36 | Floating equipment | | 53,855 27 | 89 | 47,920 57 |
| 45 | 45 | 37 | Electric locomotives | | 7,656 00 | 68 | 5,206 00 |
| 46 | 46 | 37 | Electric equipment of cars | | 31,770 00 | 60 | 20,843 00 |
| 47 | 47 | 38 | Other rail equipment | | 2,040 00 | 60 | 1,224 12 |
| 48 | 48 | 39 | Miscellaneous equipment | | 56,113 45 | 93 | 52,699 28 |
| 49 | 49 | 40 | Law expenses, 1 per cent, classes 3 to 39 | | 7,920 59 | 100 | 7,920 59 |
| 50 | 50 | 41 | Taxes, $\frac{1}{2}$ per cent, classes 3 to 49, Ex. No. 42 | | 5,438 61 | 100 | 5,438 61 |
| 51 | 51 | 42 | Miscellaneous, 2 per cent, classes 3 to 51 | | 22,130 39 | 100 | 22,130 39 |
| 52 | 52 | 43 | Interest, 3 per cent, classes 3 to 52 | | 33,859 50 | 100 | 33,859 50 |
| 53 | 53 | 44 | Stores and supplies on hand for use in California | | 15,443 84 | 100 | 15,443 84 |
| 54 | 54 | 45 | Grand totals | | \$1,523,298 11 | 87 | \$1,331,920 82 |
| 55 | 55 | 46 | Average per mile for main track | | 48,290 00 | 87 | 42,162 47 |
| 56 | 56 | 47 | Total "Road," I. C. C. Accts. 1-34 (inc.) | | 1,177,000 85 | 87 | 1,031,535 31 |
| 57 | 57 | 48 | Total "Equipment," I. C. C. Accts. 35-39 (inc.) | | 256,059 72 | 81 | 210,153 97 |
| 58 | 58 | 49 | Total "General," I. C. C. Accts. 40-44 (inc.) | | 74,787 70 | 100 | 74,787 70 |
| 59 | 59 | 50 | Total non-operative property (not included in above totals) | | 56,540 74 | 98 | 55,617 47 |
| 60 | 60 | 51 | Total operative and non-operative property | | 1,579,848 85 | 88 | 1,387,538 29 |

EXHIBIT "C."

Owning company, Petaluma and Santa Rosa Ry. Co.; operating company, same; operating division, railway and marine; valuation unit, entire system; marine: San Francisco to Petaluma; Petaluma to Santa Rosa and Forestville; San Francisco and Sonoma counties. Valuation as of June 30, 1912.
Submitted with report of H. G. Weeks. Date compiled, January 25, 1915. Main line first track, 31.59 miles; yard tracks, sidings, etc., 5.80 miles; total, 37.39 miles.

| Class No. | Form No. | I. C. C. Acct. No. | Classes | Original cost | Reproduction value | Cond. per cent. | Present value |
|-----------|----------|--------------------|---|---------------|--------------------|-----------------|----------------|
| 40 | 1 | 1 | Engineering | | \$40,653 89 | 100 | \$40,653 89 |
| 1 | 1 | 2 | Right of way | | 348,351 90 | 100 | 348,351 90 |
| 2 | 2 | 3 | Other land used in electric railway operations | | | | |
| 3 | 3 | 4 | Grading | | 89,438 29 | 106 | 94,947 69 |
| 4 | 4 | 5 | Ballast | | 94,333 58 | 100 | 94,333 58 |
| 5 | 5 | 6 | Ties | | 62,139 39 | 60 | 37,283 62 |
| 6 | 6 | 7 | Rails | | 167,777 05 | 87 | 144,031 75 |
| 7 | 7 | 7 | Track fastenings and joints | | 24,496 20 | 87 | 19,146 28 |
| 8 | 8 | 8 | Special work | | 2,866 37 | 60 | 1,695 68 |
| 9 | 9 | 8 | Frogs and switches | | 8,510 39 | 90 | 7,689 02 |
| 10 | 10 | 9 | Underground construction | | | | |
| 11 | 11 | 10 | Paving | | 22,043 89 | 86 | 18,851 08 |
| 12 | 12 | 11 | Tracklaying and surfacing | | 62,752 31 | 85 | 53,339 47 |
| 13 | 13 | 12 | Roadway tools | | 1,118 16 | 80 | 894 51 |
| 14 | 14 | 13 | Tunnels | | | | |
| 15 | 15 | 14 | Elevated structures and foundations | | | | |
| 16 | 16 | 15 | Steel bridges and trusses | | | | |
| 17 | 17 | 15 | Pile and frame trestles | | 28,083 93 | 56 | 15,719 25 |
| 18 | 18 | 15 | Culverts | | 6,133 92 | 86 | 5,247 90 |
| 19 | 19 | 16 | Fences and cattle guards | | 23,691 95 | 77 | 18,294 44 |
| 20 | 20 | 16 | Crossings and signs | | 7,861 77 | 86 | 6,766 19 |
| 21 | 21 | 17 | Interlocking plants | | | | |
| 22 | 22 | 17 | Signal apparatus | | | | |
| 23 | 23 | 18 | Telegraph and telephone lines | | 2,324 21 | 68 | 1,579 14 |
| 24 | 24 | 19 | Poles and fixtures | | 57,142 10 | 58 | 33,104 15 |
| 25 | 25 | 20 | Underground conduits | | | | |
| 26 | 26 | 21 | Transmission system | | | | |
| 27 | 27 | 22 | Distribution system | | 88,880 99 | 87 | 77,765 39 |
| 28 | 28 | 23 | Dams, canals and pipe lines | | | | |
| 29 | 29 | 24 | Power plant buildings | | | | |
| 30 | 30 | 25 | Sub-station buildings | | 6,604 23 | 84 | 5,547 56 |
| 31 | 31 | 26 | General office buildings | | 4,673 97 | 86 | 4,035 15 |
| 32 | 32 | 27 | Shops and car houses | | 10,194 36 | 92 | 9,365 69 |
| 33 | 33 | 28 | Stations and waiting rooms | | 20,974 78 | 87 | 18,256 84 |
| 34 | 34 | 28 | Miscellaneous buildings | | 5,189 12 | 87 | 4,523 30 |
| 35 | 35 | 29 | Docks and wharves | | 4,933 52 | 90 | 4,412 66 |
| 36 | 36 | 30 | Power plant equipment | | | | |
| 37 | 37 | 31 | Sub-station equipment | | 3,420 58 | 84 | 2,873 29 |
| 38 | 38 | 32 | Shop equipment | | 7,662 72 | 82 | 6,244 82 |
| 39 | 39 | 33 | Park and resort property | | | | |
| 40 | 40 | 34 | Cost of road purchased | | | | |
| 41 | 41 | 35 | Injuries and damages | | 5,553 62 | 100 | 5,553 62 |
| 42 | 42 | 35 | Cars | | 50,076 60 | 68 | 34,052 00 |
| 43 | 43 | 36 | Freight train cars | | 51,740 00 | 94 | 48,523 00 |
| 44 | 44 | 36 | Floating equipment | | 53,855 27 | 89 | 47,920 57 |
| 45 | 45 | 37 | Electric locomotives | | 7,732 00 | 68 | 5,257 00 |
| 46 | 46 | 37 | Electric equipment of cars | | 35,115 00 | 60 | 21,069 00 |
| 47 | 47 | 38 | Other rail equipment | | 2,000 00 | 60 | 1,236 00 |
| 48 | 48 | 39 | Miscellaneous equipment | | 56,413 45 | 93 | 52,609 28 |
| 49 | 49 | 40 | Law expenses | | 8,130 78 | 100 | 8,130 78 |
| 50 | 50 | 41 | Taxes | | 5,553 62 | 100 | 5,553 62 |
| 51 | 51 | 42 | Miscellaneous | | 22,509 23 | 100 | 22,509 23 |
| 52 | 52 | 43 | Interest | | 34,576 82 | 100 | 34,576 82 |
| 53 | 53 | 44 | Stores and supplies on hand for use in California | | 15,443 84 | 100 | 15,443 84 |
| 54 | 54 | 45 | Grand totals | | \$1,550,933 20 | 89 | \$1,379,479 00 |
| 55 | 55 | 46 | Average per mile for main track | | 49,065 70 | | 43,668 22 |
| 56 | 56 | 47 | Total "Road," I. C. C. Accts. 1-34 (inc.) | | 1,202,083 57 | 90 | 1,076,864 24 |
| 57 | 57 | 48 | Total "Equipment," I. C. C. Accts. 35-39 (inc.) | | 256,991 72 | 82 | 210,756 85 |
| 58 | 58 | 49 | Total "General," I. C. C. Accts. 40-44 (inc.) | | 76,414 07 | 100 | 76,414 07 |
| 59 | 59 | 50 | Total non-operative property (not included in above totals) | | 60,436 62 | 99 | 59,768 97 |
| 60 | 60 | 51 | Total non-operative and operative property | | 1,611,369 82 | 89 | 1,439,247 97 |

EXHIBIT "D."

Owning company, Petaluma and Santa Rosa Ry. Co.; operating company, same; operating division, railway and marine; valuation unit, entire system; marine: San Francisco to Petaluma; railway: Petaluma to Santa Rosa and Forestville; San Francisco and Sonoma counties. Valuation as of June 30, 1912.
Submitted with report of H. G. Weeks; date compiled, April 5, 1915; main line first track, 31.59 miles; yard tracks, sidings, etc., 5.80 miles; total, 37.39 miles.

| Class No. | Form No. | I. C. C. Acct. No. | Classes | Original cost | Reproduction value | Cond. per cent. | Present value |
|-----------|----------|--------------------|--|---------------|--------------------|-----------------|----------------|
| 40 | 1 | 1 | Engineering | | \$40,653 89 | 100 | \$40,653 89 |
| 1 | 1 | 2 | Right of way | | 347,589 14 | 100 | 347,589 14 |
| 2 | 2 | 3 | Other land used in electric railway operations | | | | |
| 3 | 3 | 4 | Grading | | 89,438 29 | 106 | 94,947 69 |
| 4 | 4 | 5 | Ballast | | 94,333 58 | 100 | 94,333 58 |
| 5 | 5 | 6 | Ties | | 62,131 30 | 60 | 37,283 62 |
| 6 | 6 | 7 | Rails | | 167,777 05 | 87 | 146,031 75 |
| 7 | 7 | 8 | Track fastenings and joints | | 24,496 20 | 78 | 19,146 28 |
| 8 | 8 | 8 | Special work | | 2,806 37 | 60 | 1,695 68 |
| 9 | 9 | 8 | Frogs and switches | | 8,510 39 | 90 | 7,689 02 |
| 10 | 10 | 9 | Underground construction | | | | |
| 11 | 11 | 10 | Paving | | 22,043 89 | 86 | 18,851 08 |
| 12 | 12 | 11 | Tracklaying and surfacing | | 62,752 31 | 85 | 53,330 47 |
| 13 | 13 | 12 | Roadway tools | | 1,118 16 | 80 | 894 51 |
| 14 | 14 | 13 | Tunnels | | | | |
| 15 | 15 | 14 | Elevated structures and foundations | | | | |
| 16 | 16 | 15 | Steel bridges and trusses | | | | |
| 17 | 17 | 15 | Pile and frame trestles | | 28,083 93 | 56 | 15,719 25 |
| 18 | 18 | 15 | Culverts | | 6,133 92 | 86 | 5,247 90 |
| 19 | 19 | 16 | Fences and cattle guards | | 23,601 95 | 77 | 18,204 44 |
| 20 | 20 | 16 | Crossings and signs | | 7,591 77 | 86 | 6,766 19 |
| 21 | 21 | 17 | Interlocking plants | | | | |
| 22 | 22 | 17 | Signal apparatus | | | | |
| 23 | 23 | 18 | Telegraph and telephone lines | | 2,324 21 | 68 | 1,570 14 |
| 24 | 24 | 19 | Poles and fixtures | | 57,142 10 | 58 | 33,104 15 |
| 25 | 25 | 20 | Underground conduits | | | | |
| 26 | 26 | 21 | Transmission system | | | | |
| 27 | 27 | 22 | Distribution system | | 88,880 99 | 87 | 77,765 39 |
| 28 | 28 | 23 | Dams, canals and pipe lines | | | | |
| 29 | 29 | 24 | Power plant buildings | | | | |
| 30 | 30 | 25 | Sub-station buildings | | 6,004 23 | 84 | 5,547 56 |
| 31 | 31 | 26 | General office buildings | | 4,673 97 | 86 | 4,035 15 |
| 32 | 32 | 27 | Shops and car houses | | 10,194 36 | 92 | 9,395 60 |
| 33 | 33 | 28 | Stations and waiting rooms | | 20,974 78 | 87 | 18,256 84 |
| 34 | 34 | 28 | Miscellaneous buildings | | 5,189 12 | 87 | 4,523 30 |
| 35 | 35 | 29 | Docks and wharves | | 4,933 52 | 90 | 4,412 66 |
| 36 | 36 | 30 | Power plant equipment | | | | |
| 37 | 37 | 31 | Sub-station equipment | | 3,420 58 | 85 | 2,873 29 |
| 38 | 38 | 32 | Shop equipment | | 7,602 72 | 82 | 6,244 82 |
| 39 | 39 | 33 | Park and resort property | | | | |
| 41 | 41 | 34 | Cost of road purchased | | | | |
| 42 | 42 | 42 | Injuries and damages | | 5,533 62 | 100 | 5,533 62 |
| 43 | 43 | 35 | Cars | | 50,076 00 | 68 | 34,062 00 |
| 44 | 44 | 35 | Freight train cars | | 51,740 00 | 94 | 48,523 00 |
| 45 | 45 | 36 | Floating equipment | | 53,855 27 | 80 | 47,920 57 |
| 46 | 46 | 36 | Electric locomotives | | 7,732 00 | 68 | 5,257 00 |
| 47 | 47 | 37 | Electric equipment of cars | | 35,115 00 | 60 | 21,069 00 |
| 48 | 48 | 38 | Other rail equipment | | 2,060 00 | 60 | 1,236 00 |
| 49 | 49 | 39 | Miscellaneous equipment | | 56,413 45 | 93 | 52,669 28 |
| 50 | 50 | 40 | Law expenses | | 8,130 78 | 100 | 8,130 78 |
| 51 | 51 | 43 | Taxes | | 5,533 62 | 100 | 5,533 62 |
| 52 | 52 | 44 | Miscellaneous | | 22,509 23 | 100 | 22,509 23 |
| 53 | 53 | 41 | Interest | | 34,576 82 | 100 | 34,576 82 |
| 55 | 47 | | Stores and supplies on hand for use in California | | 15,443 84 | 100 | 15,443 84 |
| | | | Grand totals | | \$1,559,170 44 | 89 | \$1,378,716 24 |
| | | | Average per mile for main track | | 49,071 56 | | 43,644 07 |
| | | | Total "Road," I. C. C. Accts. 1-34 (inc.) | | 1,201,320 81 | 90 | 1,076,101 48 |
| | | | Total "Equipment," I. C. C. Accts. 35-39 (inc.) | | 256,901 72 | 82 | 210,756 85 |
| | | | Total "General," I. C. C. Accts. 40-44 (inc.) | | 76,414 07 | 100 | 76,414 07 |
| | | | Total non-operative property (not included in above totals) | | 60,436 62 | 98 | 59,798 97 |
| | | | Total non-operative and operative property | | 1,610,607 06 | 89 | 1,438,485 21 |
| | | | Total non-operative and operative property, based on "market value" of lands | | 1,487,504 35 | | 1,315,382 50 |

DECISION No. 2349.

M. E. GALVAN AND J. H. CUMMINGS, AS COPARTNERS, DOING BUSINESS UNDER THE FIRM NAME OF GALVAN & CUMMINGS

vs.

BALFOUR, GUTHRIE & COMPANY.

Case No. 804.

Decided May 5, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in above entitled action having made written request, dated May 4, 1915, that complaint herein be dismissed,

It is hereby ordered that the foregoing complaint be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 5th day of May, 1915.

DECISION No. 2350.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR PERMISSION TO ABANDON AND REMOVE ITS TRACKS ON CERTAIN STREETS IN THE CITY OF LONG BEACH, LOS ANGELES COUNTY, CALIFORNIA, AND FOR PERMISSION TO CONSTRUCT ITS TRACKS AT GRADE ACROSS CERTAIN OTHER STREETS AND THE TRACKS OF THE SOUTHERN PACIFIC COMPANY TO A CONNECTION WITH THE THIRD STREET LINE, INSIDE THE CITY OF LONG BEACH, LOS ANGELES COUNTY, CALIFORNIA.

Application No. 1541.

Decided May 5, 1915.

Pacific Electric Railway Company having obtained the necessary consent of the city of Long Beach to the abandonment of certain trackage on Third street, Esperanza street and Ocean avenue, and the construction of its tracks at grade on Olive avenue and Broadway, and having entered into an agreement with Southern Pacific Company to operate over its tracks from Broadway to a connection with its Third street line, applied for and obtained an *ex parte* order from this Commission permitting such action; subsequently a number of protests were filed and such order was suspended pending a hearing.

Protestants objected to the granting of permission to abandon the Ocean avenue line claiming that though it is operated at a loss, it is a feeder and as such the losses incurred in its operation should be offset by earnings from other lines, also if such line is abandoned the private right of way will revert to the realty company who previously owned it, and that if houses are erected thereon it will greatly depreciate property values on the north side thereof by obstructing the outlook on the ocean.

49—17493.

Held. That the receipts of the Ocean avenue line do not justify its continued operation especially as such line will be moved only several blocks. Application granted, provided Pacific Electric Company shall operate a car sufficient to hold its franchise along a one-track line on its private right of way on Ocean avenue for a period of time to enable the city of Long Beach to acquire, if possible, such property for park purposes.

Frank Karr and E. C. Denio, for Pacific Electric Railway Company.

Louis N. Wheatton and George F. Kapp, for City of Long Beach.

James E. Daly and John E. Daly, for Mayberry and others.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This application was filed with the Commission on February 16, 1915, and was accompanied by copy of an ordinance passed by the city of Long Beach granting the consent of the city to the matters applied for. Subsequently, on March 12th, there was filed a copy of an agreement between the Southern Pacific Company and the applicant covering the operation of the Southern Pacific track to and across Alamitos avenue.

As is usual in these matters the Commission had an inspection made and there being no apparent reason, the city's consent having been obtained, why this application should not be granted, the Commission entered an *ex parte* order, Decision No. 2234, on March 8, 1915, granting it subject to the conditions of the franchise passed by the city in giving its approval to the various matters covered herein. Several protests were shortly afterward received against the granting of this application, and on March 26, 1915, the interested parties were notified by wire that the order in this matter had been suspended pending a public hearing.

This public hearing was held in Long Beach on April 20, 1915. All interested parties were represented and all those who in any way objected or protested against the granting of this application were given a chance to be heard.

It will be necessary to briefly discuss the transportation situation in that part of Long Beach affected by this application. American avenue and Alamitos avenue are north and south streets about five blocks apart, Alamitos being east of American avenue, which is not far from the main business section of the city. Third street, Railway street or Broadway, and Ocean avenue are east and west streets. Ocean avenue lies along the ocean front; Railway street, or as it is more often called, Broadway, is about 1,000 feet north of Ocean avenue and approximately parallel with it; Third street is parallel to both Ocean and Broadway and is about 600 feet north of the latter. On American avenue the Pacific Electric has a double track line of railway over which run cars to and from Los Angeles. On Ocean avenue, east of American avenue, is a double track line of railway. Between American

avenue and Twentieth place it is located about in the center of the street; from Twentieth place to Thirty-sixth place, or Sobrante avenue, the tracks are on the north side of a strip of private right of way and are immediately south of the south line of Ocean boulevard. From Sobrante the line is again located in the street to its junction with the railway line near Miramar avenue. From this junction two lines extend eastward, one known as the Alamitos extension; the other as the Alamitos Bay line. There is a thirty-minute service on this line and transfers are given to and from Los Angeles cars. On Broadway from Alamitos avenue east, there is a double track railway line located on a private right of way, which divides Broadway; that street extending on either side of the railway reservation. This line leaves Broadway at Paloma avenue and in a general southeasterly direction, over private right of way, joins the Ocean boulevard line at the junction of Miramar avenue, previously mentioned. On Third street east of American avenue, is a double track line extending to Olive avenue, which is about 200 feet west of Alamitos avenue. From this point a single track line extends along the center of the street to Esperanza avenue and there turns south along Esperanza avenue to a junction with the Broadway line at the corner of Broadway and Esperanza. On Esperanza, south of Broadway, there is also a single track line between Ocean avenue and Broadway. At the present time the Broadway line has no connection with the line on American avenue for Los Angeles and no transfers are given to or from Los Angeles cars.

It is the intention of the Pacific Electric, as expressed in this application, to remove its track on the Ocean avenue line from American avenue to Miramar avenue, where it joins the Broadway line; to remove the tracks of the Third street line from about the end of the single track on Olive avenue to the junction of that line with the Broadway line at the corner of Broadway and Esperanza; to also remove the connecting line on Esperanza from Broadway to Ocean avenue. It is proposed to pave and place in repair the streets from which these tracks are removed. It is also the intent of the Pacific Electric to continue the double track line on Third street south on Olive avenue to Broadway, connect there with a track of the Southern Pacific and use the track of that company across Alamitos avenue, and across the three tracks of the Salt Lake Railroad on that street, to a connection with the present terminus of the Broadway line immediately east of Alamitos avenue. This construction would give the Pacific Electric a through line from American avenue via Third street, Olive avenue, Broadway and private right of way to and beyond Miramar avenue. With the exception of about 500 feet at Alamitos avenue the line would be double tracked throughout. It is proposed, and is so stated in the application, to give the same service on this Broadway line that is now

given on the Ocean avenue line and to apply the same rates of fare to this line as now obtain on Ocean avenue.

There are three matters in this application to which the Commission is asked to give its approval. The first is the abandonment of the tracks and service previously discussed; the second is the construction of the new line on Olive avenue and across and along Alamitos and Broadway; the third covers the use of the Southern Pacific Company's track on Alamitos avenue across the Salt Lake Railroad to a connection with the present terminus of the Broadway line. No objections were raised at the hearing to the granting of the second and third of these matters. The Southern Pacific Company has consented to the use of its tracks and the city has granted the railroad company permission to make the new construction. These two matters are contingent upon the track abandonment, and if that is permitted there seems to be no reason why they should not be permitted also, and this will be no further discussed.

The immediate cause of filing this application at this time is the necessity of reconstructing the Ocean avenue line. The paving between the rails and that part outside of the rails which the Pacific Electric is required to maintain is admittedly in bad shape, and to fill its franchise obligations it will be necessary for it to repave this strip with a high grade type of pavement which will necessitate an expensive style of track construction. This work has been estimated to cost \$118,500.00. The matter was first brought to the attention of the Pacific Electric by the city officials of Long Beach over a year ago and negotiations were commenced looking to the betterment of this paving. After several conferences between the city council, officials of Long Beach and officials of the Pacific Electric, Mr. Whealton, mayor of Long Beach, came to the conclusion that, to quote from his testimony, "the Pacific Electric should not be compelled, and I didn't think even the Railroad Commission could compel them, to operate the Ocean avenue line if it was shown that they were operating at a loss. Having reached that conclusion, as a matter of law, and having admitted, as a matter of fact, that they were operating at a loss, there was nothing to do but to enter into negotiations looking toward the removal of the tracks on Ocean avenue since we could not compel them to repair them."

Another matter was also considered. As previously stated, the tracks on Ocean avenue are located on private right of way between Twentieth place and Thirty-sixth place, or Sobrante avenue, a distance of about 3,600 feet. This property extends, north and south, from the south line of Ocean boulevard to high tide line. It was secured from the Alamitos Land Company by a deed containing a clause to the effect that when the property ceased to be used for railroad purposes it would

revert to its former owners. The second clause in that deed reads as follows:

“Second—That such portion of the bluff herein conveyed as is not occupied by the tracks of the grantee or its successors, shall be maintained by it, open to the public, and no building or structure other than pavilions or waiting rooms for the accommodation of its patrons shall be constructed and maintained thereon that will obstruct the view of the Pacific Ocean from the lots immediately opposite the same.”

It is the fear of the citizens of Long Beach, and this fear was voiced by many of the protestants, that should the tracks be abandoned across this right of way and the land revert to the land company, buildings might be erected upon it which would shut off the view of the ocean from those who have purchased lots on the north side of the street opposite this strip. Owing to the shallowness of the property there is little probability that permanent buildings of a desirable type would be erected, and it is believed that buildings of a temporary character would be constructed and their occupants would be undesirable in a fine residence district such as this. The city desires to secure it for park purposes and has made some attempt to acquire it.

As showing the further progress of negotiations between the city and the railway company; the attitude of the city toward the abandonment of this piece of track; of the matters connected with it, and in regard to this piece of private right of way, I will quote further and at some length from the testimony of Mayor Whealton:

“Many interviews were had relative to this piece of property that has been testified to as having been granted by the Alamitos Land Company. There was every effort made by the council to procure title to that property. The Pacific Electric, I think, prepared a deed, a quitclaim deed to the city. Negotiations were had with the officials of the Alamitos Land Company, and I at one time saw a letter written to the secretary of the Alamitos Land Company to the effect that all officials of the Alamitos Land Company had consented to the deed except one, and that was Mr. Hellman, in San Francisco, and he refused to sign it without some compensation from the city. After spending some months in trying to procure title to that property, and the conditions on Ocean avenue becoming so very bad so far as automobile traffic was concerned, the council decided they would go ahead and grant the permit of the Pacific Electric Railroad Company to abandon its right of way there and take off its tracks; and pursuant to that agreement there was an ordinance, known as Ordinance A-181, passed September 11, 1914, permitting the Pacific Electric to abandon its tracks in accordance with this application. That ordinance was passed and signed by myself without veto, and in thirty days after becoming effective, and there was never one protest raised. The ordinance was duly published. There was never any protest raised by any of the inhabitants of the city—that is, so far as presented

to the council—respecting that ordinance. Following that ordinance, there was another ordinance embodying and affecting the same rights and relations passed by the city council, known as Ordinance 205, passed October 16, 1914, and there is no protest of that ordinance. That ordinance was also signed by myself: That ordinance is one of the ordinances in the exhibit in the application. Subsequent to that ordinance, and on November 13, 1914, Ordinance No. A-214 was passed by the city council. This ordinance grants a franchise across Alamos Avenue for this 100-foot link to connect the Third street line. When this ordinance was passed by the council, I vetoed it on the ground that it did not provide for the transfer to and from the Los Angeles cars over the Third street line that had theretofore been in vogue and are at present in effect over the Ocean Avenue line sought to be abandoned. After the ordinance had been laid on the table for some weeks, an agreement was reached between the Pacific Electric Railway and the city council, whereby they agreed to give the same transfer rights over the Third street line that they had theretofore given over the Ocean Avenue line. Upon that agreement being reached, the city council and myself were in accord in passing this ordinance, and it was passed over my veto. That ordinance became effective in December, 1914, and there has never been any protest to that ordinance. When this application to the Railroad Commission was made to abandon this line, and notice was served upon the city attorney of the city, the matter was brought to the attention of the city council, and the city council directed the city attorney to prepare a consent to the application, and a consent was prepared by myself. I think the city attorney joined with me in the consent that was sent to the Railroad Commission, consenting to the order which was heretofore entered in this application, which has been suspended during this hearing, consenting to the removal of the tracks, provided the franchise privilege was put in. There are many matters of negotiations that were carried on, but those are the principal matters, as I have stated; but the sum and substance of the city's position and the council's position, as I understand it, is this, that we could not compel them to repair this line; all we could do would be to save them operating the cars by arresting them; and that being true, the question of whether they would be compelled to operate when they desired to abandon their line, was a question for the Railroad Commission."

I am of the opinion that there can be no question regarding the failure of the Ocean Avenue line to pay operating expenses. President Shoup of the Pacific Electric testified that the line did not now and never had paid operating expenses, and that on account of competition by "jitney buses" conditions were considerably worse now than they had been in the past. He testified that the earnings per car mile on this line were less than eleven cents and that the operating expenses were higher than the average operating expenses of the Pacific Electric system, which are about twenty-one cents per car mile. As showing the effect of jitney competition there was filed, as applicant's Exhibit

No. 2, a comparative statement of the earnings of the lines in the city of Long Beach, which shows a decrease of \$52,776.39 for the eight months, July, 1914, to February, 1915, inclusive, against the same months in the previous year.

It was argued by the protestants that this line was one of many which the Pacific Electric maintained at a loss, and that they should expect, and should be compelled, to continue to maintain it, in consideration of the other lines which made good earnings and to which this was a feeder, even though it did not pay its operating expenses. Under some circumstances this would be a point to be considered, but I am not impressed with this argument as far as this particular case is concerned. It was shown that during the week, April 2 to April 8, 1915, the average number of passengers per car trip outbound varied from 3.4 as a minimum, to 6 as a maximum, and inbound from 3.1, minimum, to 4.9 maximum. I can not believe that the transfer of service, so little patronized, to a street two and a half blocks away will work any considerable hardship upon the patrons of the Pacific Electric in this section of Long Beach.

It is true that the abandonment of service on Ocean avenue may have a tendency to lower property values in that portion of the territory along this street used mainly for apartment buildings, but as for property used for residential purposes I believe that it would increase values, and this street would be a better street without the car line. Several of the witnesses for the protestants testified that as far as the removal of this line was concerned, considered by itself, they believed it would have no injurious effect to property along this street, and their objection to the removal of the line was the fear, previously commented upon, that the tract of land between Twentieth place and Sobrante would revert to private ownership. I can see no justification for maintaining two double track lines 1,000 feet apart in this district.

If one line only is to be maintained, the Broadway line is the logical one to keep in operation. It is located on private right of way, nearly in the center of population of this territory, while the territory served by the Ocean avenue line is entirely north of that line; many of the property owners along the street own automobiles, and on account of the nearness of the ocean, one side of the street only for a long distance can be served. With one line in operation it is undoubtedly true, as stated by witness for the applicant, that the need for better service can be satisfied more efficiently by increased operation on one line than if the same increase is divided between two lines, and it must not be forgotten that if the line on Ocean avenue is abandoned and the same service put on Broadway, Broadway will gain what Ocean avenue will lose. I believe applicant should be permitted to abandon the Ocean avenue line and that the same service should be given on Broadway

as is now given on Ocean avenue; the same rates of fare should obtain and transfers should be given to and from the Los Angeles line, and this is the intention of the applicant as stated in the application.

I am entirely in sympathy with the desire of the people of Long Beach to secure the tract of land between Twentieth place and Sobrante south of Ocean avenue for a city park, and it is not necessary to consider to what extent, if any, the Pacific Electric should be required to help the city secure this land in consideration of being permitted to abandon the Ocean avenue line. President Shoup of the Pacific Electric stated, in behalf of his company, that until the city of Long Beach had an opportunity to carry on further negotiations to secure this property he would be willing to maintain a single track over it and operate sufficient car service to keep the title clear by running cars from the junction at Miramar avenue north to the end of private right of way at Twentieth place, and a provision covering the matter will be recommended in the order. The city, however, can not expect this service to be continued indefinitely and after some time has elapsed to give it a chance to carry on negotiations with the Alamitos Land Company, or after the property has been acquired, the Pacific Electric may if it desires, make a further application for permission to abandon this service.

Little testimony was taken in regard to the portion of the Third street line and the line on Esperanza avenue south of Broadway sought to be abandoned. With the service on Broadway the people now served by the Third street line east of Alamitos avenue will be a block and a half removed from the through service connecting with Los Angeles. The situation is practically the same in this regard as with the Ocean avenue line, except that in this instance the distance between the two lines is considerably less. East of Alamitos avenue the Third street line is paved with the same type of paving which is between the rails on Ocean avenue, and presumably the applicant feels that if this line is not abandoned the same conditions will arise on this line as have arisen on Ocean avenue. I believe the applicant should be permitted to remove its tracks and abandon its service on these two car lines.

All the property sought to be abandoned in this application is under a general mortgage. As far as the Ocean avenue line is concerned the Pacific Electric is in the position of being compelled to practically abandon that entire line and rebuild a new one, and the materials in the present line are worth only what they will bring as junk or second-hand material. The bondholders will be as well secured by taking up this material and placing it in a storage yard as they would be if the line were taken up under the orders of the city preparatory to building a new line. The situation is different in regard to the Third street line and the line on Esperanza avenue south of Broadway. While no

order will be made at this time in this regard, the Commission will expect the Pacific Electric to take the necessary steps to adjust this matter so the interests of the bondholders will not be jeopardized by the removal of this physical property.

I recommend the following form of order:

ORDER.

Pacific Electric Railway Company, a corporation, having applied to the Commission for permission to abandon and remove certain tracks in the city of Long Beach; to construct certain tracks and to operate over the track of the Southern Pacific Company, and a public hearing having been held, and it appearing that with certain exceptions it is proper that this application should be granted,

It is hereby ordered that—

(1) The previous order made in this regard is hereby annulled;

(2) Pacific Electric Railway Company is hereby granted permission to abandon and remove its tracks in the city of Long Beach, Los Angeles County, California, on Third street, from Olive avenue east; on Esperanza avenue from Third street to Ocean avenue, and on Ocean avenue from American avenue to Miramar avenue, except that the Pacific Electric shall maintain, until a further order of this Commission, a single track line from the junction of the Ocean avenue line with the Broadway line at Miramar avenue north to Twentieth place, and shall operate over this line sufficient car service to keep clear its title to its private right of way;

(3) Pacific Electric Railway Company is hereby granted permission to construct its tracks at grade on Olive avenue from Third street to Broadway, thence easterly on Broadway to a connection with the tracks of Southern Pacific Company; also to construct a track east of Alamosa avenue connecting the Broadway line with the track of the Southern Pacific;

(4) The work of abandoning and constructing the tracks shall be done in accordance with the ordinance of the city of Long Beach hereinbefore mentioned. The use of Southern Pacific Company's tracks shall be in accordance with the terms of the agreement between the companies hereinbefore mentioned;

(5) The crossings of the streets to be crossed shall be made in good and first-class condition for the safe and convenient use of the public;

(6) All engines, trains, motors and cars of applicant, before passing over the track of the Southern Pacific Company shall come to a full stop and shall not pass over same until one of the crew, or other employee of applicant shall have first gone upon the track and ascertained that it is safe to do so and not then until after proper signals have been given;

(7) The Commission reserves the right to make such further orders in regard to this application as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of May, 1915.

DECISION No. 2351.

IN THE MATTER OF THE APPLICATION OF CITRUS BELT GAS COMPANY TO BUY A SYSTEM OF GAS PLANTS AND TO ISSUE STOCK, BONDS AND NOTES, AND OF P. J. DUBBELL TO SELL A SYSTEM OF GAS PLANTS.

Application No. 359.

Decided May 5, 1915.

Applicant having heretofore been before this Commission for an order authorizing the transfer of certain gas properties and for permission to issue bonds, notes and stock and assume a mortgage indebtedness of \$350,200.00, and the value of its properties being insufficient to permit an authorization of securities as applied for, applicant was authorized to assume the mortgage indebtedness mentioned, to issue a note of the face value of \$25,000.00 covering minor obligations and to issue \$200,000.00 par value of stock to be prorated among the various creditors. The stock authorized being unsatisfactory to creditors, a number of which were banking institutions, applicant applies for permission to issue bonds or certificates of indebtedness in lieu thereof, and though the Commission does not feel warranted in authoring an issue of additional bonds against these properties, an issue of certificates, properly safeguarded, permitted.

Held, P. J. Dubbell authorized to transfer gas systems at Redlands, San Bernardino, Corona and Colton to Citrus Belt Gas Company which latter company is authorized to assume a mortgage indebtedness of \$350,200.00 and to issue 2,500 shares of stock of the par value of \$100.00 per share, such stock to be distributed pro rata to creditors of the gas companies transferred, or in lieu of such stock, Citrus Belt Gas Company may issue certificates of indebtedness of the face value of \$200,000.00; provided, that such certificates shall bear interest at no time to exceed 5 per cent, which interest shall be variable and fixed at the option of the company; and provided further, that such certificates shall carry a condition that provides for their being converted into stock before January 1, 1918, on a basis of $1\frac{1}{4}$ shares of stock for each \$100.00 certificate, the certificates being placed in escrow pending such exchange.

S. W. McNabb, of Curtis & McNabb, for Applicants.

A. Gregory, for Home Gas and Electric Company of Redlands.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The matters presented in this application were passed upon for the most part in the decision of this Commission on April 28, 1913 (Decision No. 615). In the order issued upon this application at that

time, Citrus Belt Gas Company was authorized to assume mortgage indebtedness of the sum of \$351,200.00; to issue notes of a face value not to exceed \$25,000.00, and to issue 2,000 shares of capital stock of the par value of \$100.00 per share, or \$200,000.00 total par value—the securities therein authorized amounting to the total face value of \$576,200.00.

The effective date of the original order in this matter was set at January 1, 1914, and an extension was subsequently granted to June 30, 1914. The applicant has at subsequent times been granted further hearings in this matter, and additional evidence was presented at a hearing held at San Bernardino, August 12, 1914. At that time, the applicant asked for further time in which to submit additional data. That request was granted and another hearing was held in San Bernardino on January 15, 1915. All matters relating to this application have been very thoroughly investigated by this Commission.

The applicant now requests that it be granted authority to assume the mortgage indebtedness heretofore referred to in the sum of \$351,200.00, which now amounts to \$350,290.00, and that it be granted authority to issue in addition income bonds, or similar evidences of indebtedness, to an amount of \$362,335.89.

At the same time the applicant asks to withdraw its original request in this matter, which was for authority to issue stock, bonds and notes aggregating in all \$1,087,596.54.

As this Commission has heretofore authorized the applicant to assume mortgage indebtedness in the sum of \$351,200.00, reference is hereby made to the order of this Commission of April 28, 1913 (Decision No. 615). We may, therefore, pass to a consideration of the further petition of the applicant that it be authorized to issue \$362,335.89 in income bonds or other evidence of indebtedness.

The gas plants herein referred to, comprising gas properties in Redlands, Corona, Colton and San Bernardino, were formerly owned by San Bernardino Valley Gas Company, which passed into bankruptcy. These properties are now held by P. J. Dubbell as trustee for creditors of the San Bernardino Valley Gas Company. The claims of the unsecured creditors now amount to \$362,335.89, and it is in satisfaction of these claims that it is proposed to issue the income bonds or other evidences of indebtedness. Many of these claims are held by banking institutions, which did not desire to avail themselves of the order heretofore made, allowing the satisfaction of these claims with an issue of stock. The particular request at this time is for evidences of indebtedness, which these banks may carry until such time as the properties held are sold, or some other disposition made of the matter.

It is further proposed at this time to transfer these properties from Mr. Dubbell to a new corporation, known as Citrus Belt Gas Company;

and it is also proposed that Citrus Belt Gas Company should issue five shares of stock to trustees, who should act for the creditors.

Various appraisals of the physical properties of these gas plants have been submitted to the Commission. Mr. Z. T. Bell, engineer for the applicant, submitted an estimate of the depreciated reproduction cost of these properties in the sum of \$530,270.15, to which were added current assets and securities in the treasury, bringing the total to approximately \$622,000.00. This appraisal was submitted in August, 1914, and at that time current liabilities reduced the figure to approximately \$610,000.00. At that time, Mr. G. R. Kenny, of the gas and electric engineering department of this Commission, estimated reproduction cost of these properties at \$584,267.00, and their depreciated reproduction cost at \$471,666.00. If the other items added by Mr. Bell were added to Mr. Kenny's depreciated reproduction cost, the result would be the figure of \$552,000.00, against Mr. Bell's figure of \$610,000.00.

The report of the applicant for the calendar year 1914 shows current assets amounting to approximately \$73,000.00 and current liabilities of approximately \$11,000.00, making the net current assets approximately \$62,000.00. With Mr. Bell's appraisal of August, 1914, as a basis, this would bring the total of all assets to approximately \$595,000.00. Against this would be Mr. Kenny's figure of \$537,000.00. These figures assume that the current assets and securities, including the notes in payment for the Lytle Creek securities—or the Lytle Creek securities themselves—would be retained as assets.

The Commission has heretofore gone into great detail with regard to these appraisals in so far as they pertain to the Corona and Redlands properties. Findings of value therein were made in connection with rate cases.

Some additional evidence bearing upon the value of these properties was submitted at a hearing on March 15th of this year, but I find nothing to change in any substantial degree the figures heretofore mentioned.

In the annual report submitted to this Commission for the calendar year 1914, the applicants submitted the following statement of assets and liabilities as of December 31, 1914:

Assets—

| | |
|---------------------------------|------------------|
| Total fixed capital..... | \$651,030 37 |
| Cash | 21,031 28 |
| Total accounts receivable | 12,900 95 |
| Total investments | 39,212 00 |
| Materials and supplies | 10,763 84 |
| Total prepaid expenses | 181 59 |
| Corporate deficit | 108,528 06 |
| Total assets | \$843,648 09 |

Liabilities—

| | |
|--|--------------|
| Capital stock | \$500 00 |
| Funded debt | 350,200 00 |
| Creditors San Bernardino Valley Gas Company | 362,335 89 |
| Total accounts payable | 10,826 42 |
| Interest accrued | 1,654 17 |
| Reserve for accrued depreciation | 118,074 99 |
| Reserve for amortization of intangible capital | 56 62 |
| Total liabilities | \$843,648 00 |

The applicants submitted the following income account for the calendar year 1914:

Income—

| | |
|--|--------------|
| Operating revenue | \$111,230 69 |
| Operating expenses | 88,365 64 |
| Net operating revenue | \$22,865 05 |
| Interest revenues on funded debt owned | \$900 00 |
| Miscellaneous interest revenues | 953 77 |
| Total interest and dividend revenues | 1,853 77 |
| Miscellaneous non-operating revenue | 3,055 29 |
| Gross corporate income | \$27,774 11 |

Deductions—

| | |
|---------------------------------------|------------|
| Uncollectible bills | \$1,300 87 |
| Interest accrued on funded debt | 20,196 00 |
| Total miscellaneous deductions | 21,496 87 |
| Balance | \$6,277 24 |

The so-called underlying bonds, which the Citrus Belt Gas Company proposes to assume, consist of the following:

| | |
|---|--------------|
| Bonds of Home Gas and Lighting Company of San Bernardino, provided for in deed of trust to W. H. Hooper, dated March 30, 1906 | \$40,000 00 |
| Bonds of Home Gas and Electric Company of Redlands, said bonds being provided for in a trust deed made by Home Gas and Electric Company of Redlands to Title Insurance and Trust Company of Los Angeles, dated July 1, 1906 | 113,700 00 |
| Bonds of Redlands Gas Company, said bonds being provided for in a trust deed to Union Trust Company of San Francisco | 50,000 00 |
| Bonds of Redlands Gas Company, said bonds being provided for in a trust deed to Union Trust Company of San Francisco, dated May 1, 1903 | 48,500 00 |
| Bonds of Colton Gas Company, said bonds being provided for in a trust deed to Los Angeles Trust and Savings Bank | 15,000 00 |
| Total | \$267,200 00 |

In addition, Citrus Belt Gas Company proposes to assume a further amount of bonds of Home Gas and Electric Company of Redlands in the sum of \$83,000.00. In the previous order in the application herein,

this amount was referred to as \$84,000.00, but it has since been reduced to \$83,000.00.

An agreement has been reached in behalf of the interests concerned by which Citrus Belt Gas Company will assume these additional \$83,000.00 of bonds, and Home Gas and Electric Company of Redlands will cancel its claim against these gas properties amounting to \$112,946.00.

The provision is made for this assumption of the payment of principal and interest of these \$84,000.00 of bonds under the terms of an agreement dated October 15, 1914, copy of which has been filed in connection with the application herein. Under the terms of this agreement, Citrus Belt Gas Company guarantees the payment of the principal and interest of the bonds of Home Gas and Electric Company of Redlands in the amount of \$200,000.00. These bonds consist of the \$113,700.00 and \$83,000.00 of bonds heretofore referred to, one bond which has been retired, and \$2,300.00 of bonds which pass into the treasury of Citrus Belt Gas Company. Citrus Belt Gas Company also agrees that these \$200,000.00 of bonds of Home Gas and Electric Company of Redlands shall be further secured by a lien against all the properties to be held by Citrus Belt Gas Company, subject, however, to the other bonded indebtedness.

This contract will in effect provide for the assumption by Citrus Belt Gas Company of bonds as previously authorized by this Commission in its Decision No. 615. The effect will be the assumption by Citrus Belt Gas Company of a total outstanding bonded indebtedness amounting to \$350,200.00.

It will be necessary in order to carry out this agreement, that the \$200,000.00 of bonds of Home Gas and Electric Company of Redlands be secured by a new indenture to be executed by Citrus Belt Gas Company.

There remains for determination, therefore, the amount and nature of the securities which Citrus Belt Gas Company shall be authorized to issue in addition to its assumption of a bonded indebtedness, as heretofore noted, in the sum of \$350,200.00.

From the evidence now before this Commission, it would appear that the value of the gas properties under consideration herein, together with the net current assets and securities owned, including the notes for the Lytle Creek securities, or the securities themselves, is approximately \$550,000.00. I do not offer this as a final finding of value, but I regard it as sufficiently definite for the purposes of this case. It may be that a detailed consideration in connection with further hearings will show results somewhat different from this figure, but I am convinced that this is an approximation sufficient as a basis to determine the issues here presented. In placing the figure at

\$550,000.00, I have in mind, of course, the retention of the current assets and securities by Citrus Belt Gas Company. Should the securities be sold, the findings herein contemplate that the proceeds from such sale should be used for the corporate purposes of Citrus Belt Gas Company and not disbursed. If any disbursement of these assets were contemplated, it would, of course, be necessary to reduce the figure used as a basis for the issue of securities.

I am frank to say that in an ordinary determination of this matter, for the equity of \$200,000.00 over and above the bonds to be assumed, I would recommend that Citrus Belt Gas Company be authorized to issue stock and not an evidence of indebtedness. I would willingly recommend that Citrus Belt Gas Company should be authorized to issue somewhere between \$200,000.00 and \$250,000.00 of stock. An authorization of such an amount of stock would contemplate its issue on a basis ranging from approximately \$80.00 per share to \$100.00 per share.

However, the request is made, and insistently repeated, that the banks among the unsecured creditors could not avail themselves of an issue of stock. It is their desire that evidences of indebtedness may be issued to them, and a willingness has been expressed that these evidences of indebtedness be impounded or placed in escrow in such way that they could not be placed on the market or distributed to the public. It is stated to be the intention of these unsecured creditors to hold such paper as may be issued to them merely until such time as they can transfer their interest in the equity of these gas properties. It is not their purpose to engage in the gas business. It is their intention to realize what they can on this equity. They have represented, however, that they should be allowed a reasonable time in which to find a purchaser for this equity and they desire meanwhile to be safeguarded by their retention of evidences of indebtedness representing that equity. As a matter of practice, I would not recommend that this be done. However, in this particular instance, I believe that such evidences of indebtedness may be issued without injury to any one if proper conditions be imposed that will require within a reasonable period the conversion of these evidences of indebtedness into certificates of stock ownership. In this way, these unsecured creditors, including the banking institutions, could hold this paper until the transfer of the properties could be effected, when the purchasers could take stock certificates in lieu of the evidences of indebtedness. I believe such a reasonable period to be not to exceed three years. Accordingly, I recommend the following form of order.

ORDER.

Citrus Belt Gas Company having applied to this Commission for authority to buy a system of gas plants and to issue stock, bonds,

and notes; and P. J. Dubbell having applied to this Commission for authority to sell a system of gas plants; and Citrus Belt Gas Company having applied to this Commission for authority to assume a bonded indebtedness in the sum of \$350,200.00, and to issue income bonds or similar evidences of indebtedness to an amount aggregating \$362,335.89, and a hearing having been held and it appearing that the public interests will be served by the sale of the gas properties referred to; and it appearing further that the purposes for which Citrus Belt Gas Company is hereinafter authorized to issue stock, bonds and notes, are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that P. J. Dubbell be and he is hereby authorized to sell to Citrus Belt Gas Company those gas plants now held in his name, comprising:

- Two gas plants in Redlands,
- One gas plant in San Bernardino,
- One gas plant in Corona,
- One gas plant in Colton, together with distributing systems, real estate and other appurtenances.

It is further ordered that P. J. Dubbell be and he is hereby authorized to transfer to Citrus Belt Gas Company, and Citrus Belt Gas Company is hereby authorized to acquire stock, bonds, notes and other securities, accounts receivable and other assets now held by P. J. Dubbell as trustee for the so-called creditors of the San Bernardino Valley Gas Company.

It is further ordered that Citrus Belt Gas Company be granted authority and it is hereby granted authority to assume mortgaged indebtedness as follows:

| | |
|---|--------------|
| Bonds of Home Gas and Lighting Company of San Bernardino, said bonds being secured by deed of trust to W. H. Hooper, dated March 30, 1906 ----- | \$40,000 00 |
| Bonds of Home Gas and Electric Company of Redlands, said bonds being secured by a trust deed made by Home Gas and Electric Company of Redlands to Title Insurance and Trust Company of Los Angeles, dated July 1, 1906----- | 196,700 00 |
| Bonds of Redlands Gas Company, said bonds being secured by a trust deed to Union Trust Company of San Francisco----- | 50,000 00 |
| Bonds of Redlands Gas Company, said bonds being secured by a trust deed to Union Trust Company of San Francisco, dated May 1, 1903 | 48,500 00 |
| Bonds of Colton Gas Company, said bonds being secured by a trust deed to Los Angeles Trust and Savings Bank----- | 15,000 00 |
| Total ----- | \$350,200 00 |

It is further ordered that Citrus Belt Gas Company be granted authority and it is hereby granted authority to issue 2,500 shares of stock of the par value of \$100.00 per share;

It is further ordered that Citrus Belt Gas Company be granted authority and it is hereby granted authority to execute a supplemental indenture for the purpose of extending the lien of the bonds of Home Gas and Electric Company of Redlands of a total amount not to exceed \$200,000.00 to cover all the properties herein to be acquired by Citrus Belt Gas Company, subject, however, to such mortgage indebtedness as may be outstanding against these properties.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) Citrus Belt Gas Company shall assume the mortgage indebtedness herein referred to and shall issue the stock herein authorized only after it shall have received from P. J. Dubbell a good and sufficient deed covering all of the properties to be transferred, and after said deed of transfer shall have been approved by this Commission in a supplemental order.

(2) The stock herein authorized to be issued by Citrus Belt Gas Company shall be distributed pro rata to the so-called claimants or creditors against these gas properties in accordance with a finding which may hereafter be made by this Commission in a supplemental order.

It is further ordered that the authority herein granted to Citrus Belt Gas Company to execute a supplemental indenture to further secure the bonds of Home Gas and Electric Company of Redlands shall be subject to the approval by this Commission of such supplemental indenture.

It is further ordered that if Citrus Belt Gas Company should not elect to issue the stock herein authorized to be issued, it may in lieu thereof issue certificates of indebtedness of the face value of \$200,000.00, but only on condition that such certificates of indebtedness shall bear no fixed rate of interest, but that such rate shall not be to exceed five per cent per annum and variable at the option of the company; and on the further condition that these notes shall be distributed pro rata among the holders of the so-called claims against these gas properties amounting to \$362,335.89; and on the further condition that these certificates of indebtedness shall carry a condition under the terms of which they shall be converted into stock before January 1, 1918, on the basis of 1½ shares of stock for every \$100.00 certificate of indebtedness; and on the further condition that the recipients of these certificates of indebtedness shall enter into an agreement to pool the same or place them in escrow.

It is further ordered that if Citrus Belt Gas Company shall not issue the stock herein authorized to be issued, but shall elect to issue the certificates of indebtedness herein authorized, it is hereby authorized to issue

five shares of stock as follows: E. S. Moulton, 1 share; E. D. Roberts, 1 share; F. P. Morrison, 1 share; A. M. Ham, 1 share; Z. T. Bell, 1 share; on the condition, however, that a trust agreement shall be executed which shall show that said E. S. Moulton, E. D. Roberts, F. P. Morrison, A. M. Ham, Z. T. Bell, hold said shares of stock for the so-called creditors.

It is further ordered that Citrus Belt Gas Company shall notify this Commission on or before June 30, 1915, whether it proposes to issue the stock herein authorized or the certificates of indebtedness.

The authorization herein given shall apply to such transfer of property as shall have been made, or to such stock, bonds, notes or other evidences of indebtedness as shall have been issued, on or before December 31, 1915.

The authorization herein granted is granted upon the payment by the applicant of the fee prescribed in the Public Utilities Act.

The authority herein granted shall be exercised only after this Commission shall have issued a supplemental order stating that Citrus Belt Gas Company has complied with the requirements herein set out.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of May, 1915.

DECISION No. 2352.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO ABANDON AND REMOVE CERTAIN PORTIONS OF ITS RAILROAD TRACKS IN THAT PORTION OF THE CITY OF LOS ANGELES FORMERLY KNOWN AS THE CITY OF SAN PEDRO, IN THE COUNTY OF LOS ANGELES, CALIFORNIA.

Application No. 1596.

Decided May 5, 1915.

Pacific Electric Railway Company applies for permission to abandon certain lines within the district of the city of Los Angeles known as San Pedro, over which at present cars are run only for the purposes of holding the franchise, and the only objection arising thereto being a protest of San Pedro Chamber of Commerce who desire the maintenance of the line on Palos Verdes so as to form a connection with Outer Harbor, which connection would necessitate a connecting curve at Fourteenth street. Application granted, with the exception of the line of Palos Verdes between Fourteenth and Fifteenth streets which

portion shall be continued in operation unless applicant is unable to obtain, within a suitable period of time, the necessary franchise for the connecting curve at Fourteenth street.

Frank Karr, for Applicant.

A. Lonnquist, for the San Pedro Chamber of Commerce.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The Pacific Electric Railway Company in this application proposes to abandon the following tracks in that part of the city of Los Angeles known as San Pedro: track on Beacon street from Sixth street to Thirteenth street; track on Thirteenth street from Beacon street to Palos Verdes street; track on Palos Verdes street from Thirteenth street to Crescent avenue; track on Crescent avenue from Beacon street to Center street; track on Front street and Fifth street to Fourth and Front streets; track on Fourth street from Front street to Palos Verdes street; narrow gauge track on Fifth street from Beacon street to Front street; narrow gauge track on Front street from Fifth street to Fourth street; track on Fourteenth street and San Pedro street, running from Beacon and Fourteenth streets to end of the line on San Pedro street; track on Fourteenth street from Pacific avenue to Gaffey street. There was filed as Exhibit "C" copy of ordinance passed by the city council of Los Angeles granting the city's permission to abandon these tracks.

A public hearing was held on this application in San Pedro on April 10, 1915. It appears that service over most of these lines consists in the operation of one or two cars per day to hold franchise rights and that in such cases as the regular operation is maintained the cars have had but few passengers per day, and in one instance at least the track has already been removed at the request of the city of Los Angeles to permit grading and paving to be done on the streets which it had previously occupied. It developed that there was no opposition to the abandonment of these lines except for a short piece of track on Palos Verdes extending from Fourteenth street to Crescent avenue.

A representative of the chamber of commerce of San Pedro was present at the hearing, and on behalf of that body, expressed his belief that in the future there should be some direct mode of car connection between Outer Harbor, when constructed, and the southwest part of San Pedro. This piece of track, extended in the future, would serve this purpose, and the Pacific Electric expressed its willingness to maintain the track in question and keep on it sufficient car service to maintain the company's franchise if that franchise has not been already forfeited.

It seems that if the Pacific Electric is to operate this track in the future it will be necessary for it to have a connecting curve, on the south side, between the tracks on Fourteenth street and Palos Verdes,

and before such a curve can be constructed it will be necessary to obtain a franchise for it from the city of Los Angeles. The Pacific Electric Railway does not wish to maintain this track without the right to construct such a connecting curve when it becomes necessary and although it probably is not necessary at this time, I am of the opinion that the company would be justified in objecting to maintaining a track of this character, for use in the future, unless it were clear that the city of Los Angeles would grant it permission to build the needed connection. I believe the chamber of commerce of San Pedro should take the necessary steps to assist the Pacific Electric to secure the franchise for this connecting curve.

All this property sought to be abandoned is security for bonds which have been issued by the Pacific Electric Company under a general mortgage, and that company will be expected to take the necessary steps, if any are required, to see that the interests of the bondholders do not suffer when this proposed abandonment takes place.

I recommend the following form of order:

ORDER.

Pacific Electric Railway Company, a corporation, having applied to the Commission for permission to abandon certain tracks in that part of Los Angeles known as San Pedro, Los Angeles County, California, and a public hearing having been held, at which all interested parties were represented, and it appearing, with a certain exception, that it is proper that the application should be granted,

It is hereby ordered that Pacific Electric Railway Company be and the same hereby is granted permission to abandon the tracks hereinbefore specifically mentioned, except that piece of track on Palos Verdes street between Fourteenth and Fifteenth streets, which shall be maintained and over which sufficient car service shall be operated to hold such franchise rights as the Pacific Electric Railway Company may now have in the premises. If after due effort the Pacific Electric Railway Company is unable to secure a franchise for a proper connecting curve between the track on Palos Verdes and Fourteenth streets, it may apply to the Commission and the Commission will issue such further orders in the matter as may to it appear to be justifiable.

The Commission reserves the right to make such further orders relative to this application as to it may appear to be right and proper.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of May, 1915.

DECISION No. 2353.

MT. KONOCTI LIGHT AND POWER COMPANY

vs.

JAMES A. GUNN, JR.

Case No. 641.

Decided May 5, 1915.

Defendant having secured, in 1911, a franchise permitting the construction of an electrical distributing system in Lake County, erected a generating plant and proceeded to serve the town of Kelseyville, subsequently extending his line to the village of Finley, in which territory complainant was already engaged in serving consumers. Complainant thereupon petitioned the Commission to compel defendant to remove his lines, as he had not obtained the necessary certificate of public convenience and necessity from the Commission.

Held, That section 50 of the Public Utilities Act provides that if a utility is proceeding with due diligence under a franchise heretofore granted, it may continue such work, subject only to the supervision of the Commission; and as the defendant has so proceeded, the Commission has no jurisdiction to compel the removal of his lines. Complaint dismissed.

Wm. S. McKnight, for Complainant.

James A. Gunn, Jr., in propria persona.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

OPINION ON REHEARING.

The complaint in this case prays for an order of the Commission restraining the defendant, Gunn, from distributing electric energy in and adjacent to the village of Finley, Lake County, California. It is admitted that the complainant, Mt. Konocti Light and Power Company, was distributing electric energy in this community prior to the time when the defendant began such service. The defendant did not seek a certificate of public convenience and necessity to go into this territory. The only question presented in this case is whether, under these facts, this Commission has the right to restrain the defendant, Gunn, from distributing electric energy in this community.

On October 5, 1911, in Ordinance No. 154, the board of supervisors of Lake County granted to the defendant, Gunn, a franchise "of erecting and maintaining poles and stringing, suspending and maintaining wires thereon for the purpose of transmitting and distributing electricity for the purpose of producing light, heat and power along and upon the public highways, streets and alleys in the county of Lake, State of California, and in the several unincorporated towns and villages therein." This franchise was granted in accordance with the provisions of the Broughton Act. After obtaining this franchise Gunn immediately proceeded to construct a small hydroelectric plant on

Kelsey Creek and has since been supplying electric energy in and about the town of Kelseyville. Thereafter Gunn extended his distributing system to the northern part of the county, and in July, 1914, began supplying electric energy in and adjacent to the village of Finley. Previous to this time Mt. Konocti Light and Power Company had begun to supply electric energy in this community, and now claims that inasmuch as Gunn had not obtained from this Commission a certificate of public convenience and necessity, this Commission has jurisdiction to restrain Gunn from supplying electric energy in this territory.

The question presented in this case has not yet been passed upon by this Commission, and was raised for the first time in the application for rehearing in the present proceeding. The answer to this question must be governed by section 50 (b) of the Public Utilities Act, which provides as follows:

“(b) No public utility of a class specified in subsection (a) hereof shall henceforth exercise any right or privilege under any franchise or permit hereafter granted, or under any franchise or permit heretofore granted but not heretofore actually exercised, or the exercise of which has been suspended for more than one year, without first having obtained from the commission a certificate that public convenience and necessity require the exercise of such right or privilege; *provided*, that when the commission shall find, after hearing, that a public utility has heretofore begun actual construction work and is prosecuting such work in good faith, uninterruptedly and with reasonable diligence in proportion to the magnitude of the undertaking, under any franchise or permit heretofore granted but not heretofore actually exercised, such public utility may proceed, under such rules and regulations as the commission may prescribe, to the completion of such work, and may, after such completion, exercise such right or privilege; *and provided, further*, that this section shall not be construed to validate any right or privilege now invalid or hereafter becoming invalid under any law of this state.”

The purpose and scope of this section of the Public Utilities Act was considered at length in the decision of the Commission in Application No. 485—“In the matter of the application of Southern Sierras Power Company for the determination of whether it is necessary for said company to secure from this Commission a certificate of public convenience and necessity or a permit under the provisions of section 50 of the Public Utilities Act, for the prosecution of its operations in San Bernardino County, and if so, for an order granting such certificate or permit,” Vol. 2, Opinions and Orders of the Commission, 647. It is important to note that section 50 (b) provides in part “that when the Commission shall find, after hearing, that a public utility has heretofore begun actual construction work, and is prosecuting such work in good faith, uninterruptedly and with reasonable diligence in proportion to

the magnitude of the undertaking, under any franchise or permit heretofore granted but not heretofore actually exercised, such public utility may proceed, under such rules and regulations as the Commission may prescribe, to the completion of such work, and may, after such completion, exercise such right or privilege." The record in the present case shows that upon receipt of his franchise from the board of supervisors of Lake County, Gunn immediately began the construction of a hydroelectric plant on Kelsey Creek, and has since that time proceeded in good faith, uninterruptedly and with reasonable diligence in proportion to the magnitude of the undertaking, to enlarge and extend this distributing system to supply other portions of Lake County. While it must be clear, therefore, that under section 50 (b) of the Public Utilities Act the Commission may prescribe such rules and regulations as seem proper, governing the construction and extension of defendant's hydroelectric system in Lake County, the Commission is given no power to refuse to the defendant the right to exercise his franchise at all in or about the village of Finley, in Lake County. I must conclude, therefore, that the Commission does not have jurisdiction to grant the relief requested by the complainant in this case. I recommend, therefore, that the order heretofore made in this proceeding on December 30, 1914, be annulled and that the complaint herein be dismissed, and submit herewith the following form of order:

ORDER ON REHEARING.

James A. Gunn, Jr., having filed an application for rehearing of this proceeding, and said application having been heard, and the matter being now ready for decision,

It is hereby ordered that the order heretofore made in this proceeding on December 30, 1914, be, and the same is, hereby annulled and that the complaint in this proceeding be, and the same is, hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of May, 1915.

DECISION No. 2354.

IN THE MATTER OF THE APPLICATION OF THE LOYALTON ELECTRIC
LIGHT COMPANY FOR AN ORDER TO DISCONTINUE ELECTRIC
SERVICE TO THE RESIDENTS OF THE TOWN OF LOYALTON.

Application No. 1594.

Decided May 5, 1915.

Loyalton Electric Light Company, serving the town of Loyalton with electric energy, contends that its present revenues are insufficient to continue the operation of its plant, and petitions the Commission for permission to discontinue service, and it appearing that the population of this town has decreased from 2,000 to approximately 300, and that the revenue from the few remaining consumers of applicant is insufficient to pay operating expenses, and there being no prospect of additional consumers, application granted to become effective May 25, 1915.

W. H. Duncan, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application by the Loyalton Electric Light Company to discontinue serving the residents of Loyalton with electric energy.

The petition cites the fact that applicant is engaged in the business of furnishing electricity for lighting purposes to residents of Loyalton and alleges that it has been operating its business for the past seven years at a loss, due to the fact that the population of Loyalton has greatly diminished and that there is no hope of ever conducting the business at a profit. The hearing was held in this matter at Loyalton on April 12, 1915, at which time evidence was introduced by petitioner in support of its application above referred to.

The facts appear to be as follows:

About 1907 four sawmills and three box factories were operating in the vicinity of the town of Loyalton, a municipal corporation of the sixth class, located on the line of the Boca and Loyalton Railroad, at which time the population of the town was approximately 2,000. As a result of the rapid decrease in accessible timber and due to the fact that more advantageous transportation facilities were available in other localities, all of the sawmills and two of the box factories, upon which Loyalton's population largely depended, have discontinued operation and the remaining box factory will be shut down in the course of the next few months. At the present time the population of Loyalton is estimated at not to exceed 300.

Petitioner's generating plant consists of a 250-horsepower reciprocating steam engine belted to a 160 kilowatt alternating current generator. The energy generated is distributed over 2,200 volt primary circuits to various pole type transformers where it is stepped down

to approximately 110 volts. Petitioner has heretofore depended upon the box factories for its supply of fuel, and when the remaining factory is shut down and the supply of mill refuse is exhausted, fuel for steam can not be obtained at a cost sufficiently low to permit the continued operation of petitioner's present plant. It is further apparent that petitioner's generating plant is much too large to supply the needs of its remaining forty consumers, and that under no circumstances could a plant of this size be operated economically to supply the present needs of this community.

While it is exceedingly unfortunate that the remaining residents of Loyalton should be deprived of electric service, and while the Commission would not be inclined to grant this application if there was any possibility of the company continuing operation at a profit, conditions over which petitioner has no control makes it necessary to grant the relief requested. It was intimated at the hearing that in the event this application is granted by the Commission, the town itself, or its inhabitants individually, may undertake to continue electric service in Loyalton, provided sufficient funds could be raised to install a small gasoline engine driven unit; and provided, further, that satisfactory arrangements could be made with petitioner for the use or purchase of its distribution system. Petitioner, through its manager, Mr. W. H. Duncan, has agreed to sell its distributing system, or any portion thereof, to the town of Loyalton at a valuation to be fixed by the Commission's engineers, and it was stipulated that the town would be allowed until May 25, 1915, to determine whether or not it wished to take advantage of the offer made by petitioner. I feel that this is a very liberal offer on the part of petitioner, but should recommend that the town of Loyalton be allowed until June 1, 1915, to indicate its final decision in this matter.

I submit herewith the following form of order:

ORDER.

A public hearing having been held in the above entitled proceeding and the same having been submitted and being now ready for decision,

It is hereby ordered that Loyalton Electric Light Company be and the same is hereby permitted to discontinue electric service in the town of Loyalton on May 25, 1915, and to dispose of its property now devoted to the production and distribution of electric energy in Loyalton on or after June 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of May, 1915.

DECISION No. 2355.

IN THE MATTER OF THE APPLICATION OF ECONOMIC GAS COMPANY FOR AN ORDER APPROVING AN ISSUE OF BONDS OF SAID CORPORATION OF THE FACE VALUE OF NINE HUNDRED THIRTY THOUSAND DOLLARS.

Application No. 500.

Decided May 5, 1915.

Applicant, having previously been authorized to issue \$122,500.00 of preferred stock and \$262,000.00 face value of 6 per cent bonds, to be sold only after applicant has obtained a supplemental order authorizing such action, applies for and is granted permission to sell such stock at not less than 80 and bonds at not less than 83 $\frac{1}{4}$, or if applicant desires, to pledge such bonds as security for notes at the ratio of 3 to 2, proceeds of such stock, bonds or notes to be used to pay floating indebtedness and for additions and betterments.

Chickering & Gregory and Winfield Dorn, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner.*

Heretofore, on January 30, 1914, this Commission issued a supplemental order in the above entitled matter, approving a plan of financial reorganization of Economic Gas Company and authorizing said company to issue certain first preferred stock, second preferred stock and certain of its 6 per cent bonds. Subdivision 2 of said order granted authority to Economic Gas Company as follows:

“To issue \$122,500.00 par value of its first preferred stock and to place the same with trustees, to be thereafter sold by said company but only upon the application to and the approval by this Commission.”

Subdivision 4 of said order granted authority to said company as follows:

“To issue \$262,000.00 of its 6 per cent bonds and place the same in the hands of the trustees named in the application, namely, L. P. Lowe, S. Waldo Coleman and C. W. Conlisk, the same to be hereafter sold only for money needed for additions and betterments to the company's property and only when the additions and betterments and the cost thereof are approved by this Commission.”

Economic Gas Company now makes supplemental application to this Commission asking for modification of subdivision 2 and subdivision 4 of the order heretofore made on January 30, 1914. The applicant requests that these portions of the order be modified so that the trustees holding the stock and the bonds may sell the same or pledge the bonds and use the proceeds for the corporate purposes of the applicant.

As it was clearly the intention of this Commission in its order of January 30, 1914, that the stock and bonds referred to in subdivisions 2

and 4 of said order should be held by the trustees to be disposed of for the corporate purposes of the Economic Gas Company, I recommend that the application for a modification of this Commission's order of January 30, 1914, be granted, and I therefore submit the following form of order:

ORDER.

Economic Gas Company having applied to this Commission for a modification of this Commission's order of January 30, 1914, in the above entitled matter (Decision No. 1238), and a hearing having been held and it appearing that the proposed modifications are reasonable and proper,

It is hereby ordered that Economic Gas Company be granted authority to issue \$122,500.00 par value of its first preferred stock and to place the same with L. P. Lowe, S. Waldo Coleman and C. W. Conlisk, as trustees, to be sold as the stockholders of said company shall direct, but in no event to be sold for less than \$80.00 per share.

The authority herein granted to issue said \$122,500.00 par value of applicant's first preferred stock is granted in lieu of the authority heretofore granted to applicant to issue a like amount of stock as authorized by this Commission in subdivision 2 of its order of January 30, 1914, in the above entitled matter.

It is further ordered that Economic Gas Company be granted authority and it is hereby granted authority to issue \$262,000.00 face value of its 6 per cent bonds and to place the same in the hands of the trustees named in the application, namely, L. P. Lowe, S. Waldo Coleman and C. W. Conlisk, said bonds to be sold for money needed for the corporate purposes of the applicant, but in no event to be sold at less than 83 $\frac{1}{3}$ per cent of the face value thereof plus accrued interest thereon.

It is further ordered that the trustees, for said \$262,000.00 of bonds, may pledge said \$262,000.00 of bonds or any part thereof as collateral security for the purposes of the applicant herein, but in no event shall the notes for which said bonds shall be pledged as collateral be less than 66 $\frac{2}{3}$ per cent of the face value of the collateral pledged.

It is further ordered that the authority herein given to the applicant to issue said \$262,000.00 of bonds shall be in lieu of the authority heretofore given to the applicant to issue \$262,000.00 of 6 per cent bonds as contained in subdivision 4 of the order of January 30, 1914, in the above entitled matter.

The authority herein given to the applicant to issue said first preferred stock and said 6 per cent bonds is granted upon the following conditions and not otherwise:

(1) The proceeds derived from the sale of said stock and said bonds shall be used to pay floating indebtedness of this applicant or shall be used for additions and betterments to applicant's property.

(2) Economic Gas Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stocks and bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stocks and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted shall apply to such stock and to such bonds as shall have been issued on or before June 30, 1916.

The foregoing second supplemental opinion and order are hereby approved and ordered filed as the second supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of May, 1915.

DECISION No. 2356.

RICHMOND W. ARMSTRONG, WILLIAM J. STADLEMAN AND
OLIVER C. CONLEY

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 457.

Decided May 5, 1915.

Complainants attack defendant's present schedule of passenger rates between Los Angeles and Venice, Ocean Park and Santa Monica alleging that the distance to points mentioned is less than to Long Beach and Anaheim Landing though the rate to the latter points is the same, also that defendant has, on several occasions, particularly Sundays and holidays, established a round trip rate of 25 cents, which voluntarily established rate should be made permanently effective.

Held. That the small mileage difference between points named by complainant is not sufficient grounds for altering a long established rate nor should a carrier be held to a special rate even though voluntarily established, when, as in the present case, the lower rate was established as an excursion rate only and at the request of various bodies, for charitable purposes. Complaint dismissed.

Hutton, Jensen & Fogel, for Complainants.

Frank Karr, for Defendant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

The complainants in this case attack as excessive and unreasonable various passenger rates of the defendant between the city of Los Angeles and beach resorts, Santa Monica to Venice, inclusive.

Originally there was filed with the Commission a complaint by what was known as the Los Angeles Rate Association, which was assigned Case No. 459 and which was set down for hearing at the same time as these proceedings, inasmuch as the complaint of the Los Angeles Rate Association called into question the entire scheme of rates of the Pacific Electric Railway Company. At the time of the hearing the complainant, Los Angeles Rate Association, through its attorney, advised that it had no evidence to introduce and stood on the allegations contained in the complaint. The Commission thereupon dismissed this complaint and these proceedings were continued at a later date comprehending only the rates between Los Angeles and the northern beach resorts. The city of Venice was at one time party to the proceedings, but at the request of the city attorney proceedings were dismissed as far as the city authorities of Venice were concerned.

The issues are somewhat confused. It is alleged by complainants that the rates between Los Angeles and Venice and Santa Monica are excessive and discriminatory, and as a basis for the support of such allegations the rates of the defendant carrier in effect between Los Angeles, Long Beach and Anaheim Landing are shown in comparison.

The complainants contend that between Los Angeles and Venice and Santa Monica a round trip rate of 25 cents should be published and that such rate is reasonable, based entirely on the fact that on certain days the Pacific Electric Railway Company has had in effect such a rate. The records of the Commission approving the publication of this rate indicate that the same was published on certain days, particularly Saturdays, during the summer months for the accommodation of poor people at the request of municipal and charitable officials. When a rate of this kind is published to enable the poor to reach the beaches, who might otherwise be precluded from taking the trip, I do not feel that this Commission should use such a rate as a measure of comparison to determine the reasonableness of other rates. Defendant, of course, would not publish such a rate if by so doing it became liable to an attack on its entire rate structure. When a carrier has, as appears to have been done in this case, published a rate as a charitable proposition, such rate should not be used as is here proposed.

The complainants stated that the reasonableness of the rate is not under consideration at all (page 509 of Transcript of February 15, 1915); and I also might refer to pages 232 and 233 of Transcript of January 7, 1914, particularly testimony as follows:

Q. I will take the mileage. I understand that you ask for a mileage basis.

A. We don't ask for a mileage basis. We ask for a certain ticket and base our request on discrimination.

Q. What is the element that enters into your asking for a 25-cent rate? Discrimination?

A. Discrimination.

Q. On what do you base the 25 cents? Is it a reasonable rate?

A. Well, as to that, we took this position, that the railroad company, of its own volition, has asked permission from the Railroad Commission from time to time to have special days on which they sold tickets to this point for 25 cents a round trip.

In other words, the complainants allege that the rates to Long Beach and Anaheim Landing are unduly discriminatory against the interests of the beach resorts between Venice and Santa Monica, and because of this discrimination they ask the Commission to cut the rate in half because at different times the carrier sees fit to make low rates for charitable purposes.

It is most difficult, indeed, to determine how to reconcile the various statements of witnesses for complainants. At one time the testimony is to the effect that the reasonableness of the rates is not under consideration at all and in other parts of the testimony we are asked to lower the rates because of discrimination existing in favor of some other community. Discrimination may be removed by either reducing the high rate or raising the low rate. Of course the complainants desire the rates to Venice reduced because the mileage may be somewhat shorter to the northern beach resorts than to those in the vicinity of Long Beach.

The only theory upon which the Commission can or should reduce a rate is that it is unreasonable, and here we are confronted with statements of witnesses for complainants that the question of the reasonableness of the rates is not involved at all. It is apparent that the real issues in this case are whether or not the Commission should disturb the blanket arrangement of rates which has been in effect between Los Angeles and the various beach resorts, regardless of distance, for many years.

The following table indicates the distances between Los Angeles and the various beach resorts via the numerous lines of the defendant serving the same:

Northern Beach Resorts.

Rate of 50 cents for round trip applies
going and returning via any of these lines.

| | Miles |
|--|-------|
| Los Angeles to Windward avenue, Venice, via short line..... | 14.81 |
| Los Angeles to Utah avenue, Santa Monica, via short line and Venice..... | 17.02 |
| Los Angeles to Utah avenue, Santa Monica, via Vineyard and Beverly Hills..... | 17.12 |
| Los Angeles to Utah avenue, via Hollywood and Sawtelle..... | 19.23 |
| Los Angeles to Windward avenue, Venice, via Hollywood and Sawtelle..... | 21.43 |
| Los Angeles to Windward avenue, Venice, via Vineyard, Beverly Hills and Utah avenue | 19.33 |
| Los Angeles to Santa Monica, Utah avenue, via Del Rey..... | 21.98 |
| Los Angeles to Del Rey, via Vineyard, Beverly Hills and Santa Monica..... | 21.70 |
| Los Angeles to Del Rey, via Hollywood and Santa Monica..... | 23.80 |
| Los Angeles to Del Rey, via short line..... | 17.20 |

Southern Beach Resorts.

| | |
|--------------------------------------|-------|
| Los Angeles to Long Beach | 20.33 |
| Los Angeles to Anaheim Landing | 24.83 |

It will be noted that the short line mileage between Los Angeles and Venice (Windward avenue) is 14.81 miles and to Utah avenue, Santa Monica, via this same route and continuing along in a northerly direction from Venice it is 17.02 miles. The distance to Santa Monica via what is known as the main line from Los Angeles via Windward avenue and Beverly Hills is 17.12 miles. The complainants urge that a rate of 25 cents for the round trip be established to Santa Monica via these two lines, but also want the privilege of permitting passengers to ride to Venice when traveling via the Vineyard-Beverly Hills line through Santa Monica, a distance of 19.33 miles. The evidence is somewhat confusing on this point because at times it was testified to that the greatest possible distance a person should travel on the proposed round trip ticket would be 17.12 miles, but on page 516 of Transcript of February 15, 1915, witness for complainants admits that the greatest possible mileage would be 19.33 miles. We may, therefore, assume that the complainants would not be satisfied with anything less than the privilege of traveling via this route and covering this distance.

Tickets are sold between Los Angeles and the northern beach resorts, namely, Santa Monica, Ocean Park, Venice and Del Rey, via all of the routes indicated in the statement of mileages heretofore mentioned. In some instances the one-way passage may be made to Venice in 14.81 miles and the return trip may cover the route via Hollywood 21.43 miles. The real question to be determined is, whether the maintenance of a blanket rate of 50 cents to all of these resorts, the distance to some of which may be longer from Los Angeles than to others, unduly discriminates against the resorts near to the city of Los Angeles. It

stands to reason that in any blanket rate adjustment, a passenger destined to a point at the near end of the blanket always pays a higher rate per mile than a passenger destined to the farther end of the blanket.

It is true that the rate of fifty cents for the round trip from Los Angeles extends to Anaheim Landing, a distance of 24.83 miles. There is nothing at Anaheim Landing to attract excursionists and there is little or no travel to that point. I would not recommend that because of the desire of the carrier to treat all beaches alike within a reasonable radius that we should find that a rate of fifty cents for the round trip to Anaheim Landing constituted such an undue preference over the northern resorts of Venice and Santa Monica as to warrant an arbitrary reduction in the rates to those points. If we assumed that the rate between Los Angeles and Anaheim Landing were reasonable *per se* for that distance, we would have a rate at Venice via Beverly Hills and Utah avenue, Santa Monica, a distance of 19.33 miles, of 39 cents. However, the real competition between the northern resorts, consisting of Santa Monica, Venice and Ocean Park, is with Long Beach—a distance of 20.33 miles from Los Angeles.

The complainants ask that any rates established be applied via what is known as the main line through Santa Monica to Venice, a distance of 19.33 miles, and on this basis the discrimination existing in favor of Long Beach on a round trip ticket of 50 cents is two cents. In other words, if we should assume that the rate of 50 cents is a just and reasonable rate for the round trip between Los Angeles and Long Beach, the rate to Venice and other northern beach resorts would be, according to the complainants' contention, 48 cents. On the other hand, if we should accede to the complainants' desires and establish a round trip rate of 25 cents to Venice, the rate to Long Beach would be 26 cents and to Anaheim Landing 31 cents.

It must be apparent that this discrimination, if it may be called such, is not enough to warrant any disturbance of the blanket system of rates between Los Angeles and the beach resorts. The complainants allege that the rates to Anaheim Landing unduly discriminate against the northern beaches, but the mere fact that to Anaheim Landing there is little or no travel proves conclusively that the difference in rates has not been worked to the disadvantage of Venice and Santa Monica. It is also noted that the total traffic to Venice, Santa Monica and the northern beach resorts is over three times as great as the traffic to Long Beach, and this indicates that the present adjustment of rates has not worked to the material disadvantage of the northern beaches.

It might well be urged that because of the greater density of traffic between Los Angeles and the northern beaches that they would be

entitled to a lower rate, but it must be remembered that there are over three times as many miles of railroad serving the northern beach region.

The question of blanketing of rates has been passed on a number of times by commissions and courts, and it has been definitely decided that the proper blanketing of rates does not create an unlawful preference in favor of one community as against another. It is quite impossible for the Commission to order a reduction in the rates to Venice and Santa Monica without finding them to be excessive and unreasonable, and notwithstanding the complainants' numerous statements that the reasonableness of the rates is not in question and discrimination is the only matter in issue, I am inclined to believe that what was meant was that the rate to Long Beach should be adjudged reasonable for the distance and therefore unreasonable for the shorter distance to Venice and Santa Monica.

From the evidence in this case it would appear that the defendant carrier can stand a material shrinkage. On the contrary, the records indicate that except for the fiscal years ending June 30, 1912 and 1913, the Pacific Electric Railway did not earn sufficient to pay operating expenses, taxes and interest on bonded indebtedness, to say nothing of a dividend on any investment represented by stock issues.

The discrimination complained of, in my judgment, is not of enough consequence to warrant the Commission finding that it amounts to an undue preference in favor of Long Beach or that the rate to Venice by reason of the somewhat longer mileage to Long Beach is unduly high.

After careful and thorough consideration, I find no evidence in this case which warrants disturbing the present blanket rate adjustment or for finding that the present rates are unduly high. The complaint should be dismissed, and I so recommend.

ORDER.

Richmond W. Armstrong, and others, having filed complaint with this Commission alleging that passenger fares of the Pacific Electric Railway Company between Los Angeles on one hand, and Venice and Santa Monica on the other, are excessive, unjust and discriminatory, and a regular hearing having been had and the Commission being fully apprised in the premises,

It is hereby ordered that the complaint be, and the same is, hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of May, 1915.

Decision No. 2357, grade crossing; not published. See end of volume.

DECISION No. 2358.

IN THE MATTER OF THE RATE FOR ELECTRIC POWER SUPPLIED BY UNITED LIGHT AND POWER COMPANY TO SAN FRANCISCO, OAKLAND AND SAN JOSE CONSOLIDATED RAILWAY AND SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS.

Case No. 779.

Decided May 10, 1915.

In connection with Application No. 990 of the San Francisco-Oakland Terminal Railways, the Commission's attention was directed to a certain power contract entered into between respondents herein, in which contract it appeared that the railway company, owning what is known as the Yerba Buena Power Plant, leased such plant, together with certain other property and privileges, to the power company at the nominal yearly rental of \$1.00, agreeing to pay cost of all additions and improvements, extraordinary maintenance, etc., and depreciation, and also entered into a power contract to purchase energy from the power company at the same rate paid Pacific Gas and Electric Company, or \$.01125 per kilowatt hour.

An investigation establishing the fact that such contract is extremely burdensome to the railway company, in that it is obliged to pay a rate for power considerably in excess of a fair rate for such service, and that such contract was entered into when the same officials were in control of both companies: Contracts and leases of such a nature entered into solely with a view to diverting funds from one company to another severely criticised and respondents directed to prepare and file by May 20, 1915, a new power contract, for the approval of the Commission.

Morrison, Dunne and Brobeck, by W. I. Brobeck, for San Francisco, Oakland and San Jose Consolidated Railway and San Francisco-Oakland Terminal Railways.

R. P. Henshall, for United Light and Power Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

On February 13, 1915, this Commission issued the following order:

"Whereas, In the course of this Commission's investigations in connection with Application No. 990, being application of San Francisco-Oakland Terminal Railways for an order authorizing the issue of notes and bonds, the Commission's attention has been directed to a contract dated December 30, 1911, between San Francisco, Oakland and San Jose Consolidated Railway and United Light and Power Company; and

"Whereas, It appears that the interests in control of the railway company were also in control of United Light and Power Company at the time said contract was entered into; and

"Whereas, The evidence thus far secured by the Railroad Commission would seem to show that this contract imposed a particularly onerous and improper burden upon the railway company and an undue benefit upon United Light and Power Company; and

"Whereas, The attention of San Francisco-Oakland Terminal Railways, as successor to San Francisco, Oakland and San Jose

Consolidated Railway, has been drawn to this matter by the Railroad Commission, but said company has not secured any modification of said contract.

"It is hereby ordered that the Railroad Commission, on its own motion, hereby institutes an investigation into the rate paid by San Francisco-Oakland Terminal Railways to United Light and Power Company for electric energy, and into all contracts or other arrangements in connection therewith, and that a hearing in said matter be set for Tuesday, February 23, 1915, at 10 o'clock a.m., in the office of the Railroad Commission, before Commissioner Thelen, at which time and place all interested parties may appear and be heard.

"And it is further ordered that the secretary be and he is hereby directed to serve upon San Francisco-Oakland Terminal Railways, San Francisco, Oakland and San Jose Consolidated Railway and United Light and Power Company a notice of said hearing, at which time and place they may appear and show cause, if any they have, why the Railroad Commission should not proceed to establish a just and reasonable rate for said service, to which notice shall be attached a certified copy of this order."

By agreement dated December 30, 1911, San Francisco, Oakland and San Jose Consolidated Railway undertook to lease for a term of ten years its Yerba Buena steam electric generating plant in Oakland, certain rights of way, the site for a proposed salt water condensation system, and adjacent land necessary to operate said plant, to United Light and Power Company (of California). The annual rental is fixed at the nominal sum of \$1.00 per year. If at the end of ten years the lessor refuses to pay the lessee for all additions and improvements, the lease is automatically renewed. The terms of the lease further provide that United Light and Power Company (of California) is to install a complete salt water condensation system at a cost not exceeding \$150,000.00; that the lessee is to make the necessary additions and improvements to the electric plant at a cost not exceeding \$245,000.00, and that the lessee is to bear also all ordinary maintenance and operating expenses. All extraordinary maintenance, replacements or repairs and all depreciation are to be borne by San Francisco, Oakland and San Jose Consolidated Railway.

On the same day, December 30, 1911, and as part of the same transaction, United Light and Power Company (of California) and San Francisco, Oakland and San Jose Consolidated Railway undertook to enter into a contract under the terms of which the power company agrees to furnish to the railway company for a period of ten years all the electric energy required by the railway company, except that covered by contract between the railway company and Pacific Gas and Electric Company. Under the terms of the aforementioned contract, San Francisco, Oakland and San Jose Consolidated Railway is obliged to pay to United Light and Power Company (of California) for energy

furnished \$.01125 per kilowatt hour. Upon the completion of the salt water condensation system, the rate per kilowatt hour is to be increased to \$.01725. To date, the condensation system has not been installed.

Public hearings in this proceedings were held in San Francisco on March 13 and April 5, 1915, and the case is now ready for decision.

This Commission's exhibit No. 1 in this proceeding, prepared by A. F. Bridge of the electrical engineering department of this Commission, shows that the United Light and Power Company (of California) has invested for the purpose of carrying out the aforementioned contract the sum of \$23,023.63.

The exhibit further shows the following cost of service to United Light and Power Company (of California):

| | 1913 | 1914 | Mean |
|--|--------------|--------------|--------------|
| Operating expenses | \$94,128 46 | \$98,910 22 | \$96,519 34 |
| Fixed costs | 6,674 32 | 6,674 32 | 6,674 32 |
| Sub-totals | \$100,802 78 | \$105,584 54 | \$103,193 66 |
| Taxes | 3,390 04 | 6,791 42 | 5,090 73 |
| Totals | \$104,192 82 | \$112,375 96 | \$108,284 39 |
| Annual output—kilowatt hours..... | 14,800,826 | 13,455,161 | 14,127,995 |
| Cost per kilowatt hour..... | \$0.007040 | \$0.008352 | \$0.007665 |
| Revenue at 1.125¢ per kilowatt hour..... | \$166,509 29 | \$151,370 56 | \$158,939 94 |
| Profit | \$62,316 47 | \$38,994 60 | \$50,655 15 |

Mr. Bridge estimated that the total cost of service to San Francisco-Oakland Terminal Railways (successor to San Francisco, Oakland and San Jose Consolidated Railway) under present conditions to be \$.018932 per kilowatt hour. The following items enter into his calculations:

Investment costs. (Based on C. R. C. estimate of cost to reproduce.)

| | |
|----------------------------|--------------|
| Land | \$77,100 00 |
| Buildings | 57,339 14 |
| Steam plant equipment..... | 740,885 07 |
| Storage batteries | 94,783 00 |
| Total | \$970,157 21 |

Depreciation. (Sinking fund basis.)

| | | |
|----------------------------|-------------|-------------|
| Buildings | \$57,339 14 | \$197 65 |
| Steam plant equipment..... | 740,885 07 | 20,140 64 |
| Storage batteries | 55,000 00 | 2,362 95 |
| Total | | \$22,701 24 |

| | |
|---|--------------|
| Total fixed costs..... | \$100,313 82 |
| Per kilowatt hour (15,000,000 kilowatt hour output) | .006688 |
| Purchase price per kilowatt hour..... | .01125 |
| Total cost to railway company..... | \$.017938 |
| Increased for taxes..... | .018932 |

In the above estimate Mr. Bridge uses an 8 per cent interest return on the investment. The cost could be more accurately expressed by taking the actual interest requirements on the investment, which probably are not greater than 6 per cent. To this extent, the estimate of Mr. Bridge is subject to modification.

Mr. Bridge estimated also that the railway company could generate its own power and meet all possible costs entailed at the very material saving of \$.004 per kilowatt hour.

A representative of United Light and Power Company (of California) at the time the contract here in question was entered into testified that the price per kilowatt hour was based on the contract between Oakland Traction Company and Pacific Gas and Electric Company. The circumstances surrounding these two contracts, however, are so entirely different that the rate paid under the Pacific Gas and Electric Company contract can not possibly be used as a justification for the rate paid to United Light and Power Company (of California).

Under the Pacific Gas and Electric Company contract, Oakland Traction Company pays \$.01125 per kilowatt hour, and that is practically the entire cost to the consumer. However, in the case of the contract between San Francisco, Oakland and San Jose Consolidated Railway and United Light and Power Company (of California), the railway company not only pays the power company the \$.01125 per kilowatt hour, but in addition is obliged to pay the interest upon its investment in the Yerba Buena power station, the depreciation charges and extra maintenance and replacements, and is obliged further to furnish transmission lines, transforming devices, substations and labor.

It is at once obvious, and must have been obvious to the parties who made the contract, that it imposed onerous burdens upon the railway company. There is before this Commission further testimony in regard to the improper nature of this contract in the form of the report of J. G. White and Company. This report was filed in connection with J. G. White and Company's appraisal of the properties of San Francisco-Oakland Terminal Railways. In this connection, J. G. White and Company reported as follows:

"The lease of the Yerba Buena station and agreement for the purchase of power produced by the lessee, we do not believe to be so drawn as to be for the best interests of the company. The price under the conditions surrounding the delivery of power is not as favorable as the company's other power contracts, and the provision for increase in rate on account of extensions to power plant apparatus does not appear defensible. Further, a rate of \$.01125 at Yerba Buena station for alternating current we consider excessive, as the consumer is obligated to furnish and maintain all transmission lines, transforming devices, substations and labor, in addition to interest and depreciation charges, which will probably result in an ultimate power cost of at least double the price the company is now paying other power producers.

"To prevent this probable burdensome condition becoming a fact, the United Properties Company, as the owner of the majority of the capital stock of the parties to the lease and contract, passed a resolution on July 12, 1912, to indemnify the company from loss by reason of said agreement and lease, and we understand that as a matter of fact power is being billed the company at much less rate than named in the contract. We are not clear, however, as to how this adjusted rate has been arrived at nor are we satisfied that if the United Properties Company should dispose of its stock interest in either or both of the parties to the lease and agreement, that the purchaser would be obligated by this action of the United Properties Company. We have not taken legal counsel in regard to these several agreements, but we believe that the matter could be greatly simplified by the cancellation of the documents now in effect and the execution of modified agreements setting forth in unmistakable terms the implied purpose that the company shall continue to receive its power from the lessee upon terms fully as favorable as while operation of the power plant was in its own hands."

The evidence in this case shows that this burdensome contract has continued in force and is still in force at the present time. It further appears that the United Properties Company of California has not lived up to its agreement and that it has not protected the railway company from loss under this contract.

It also appears that this contract between United Light and Power Company (of California) and San Francisco, Oakland and San Jose Consolidated Railway was made at a time when both the power company and the railway company were under control of the United Properties Company of California, or in other words, when the control of the two contracting parties were in the same hands.

I can not escape the conclusion, therefore, that this contract was entered into for the purpose of improperly deflecting the earnings of the railway company into the treasury of the power company.

The evidence at hand before this Commission establishes that this contract imposed a particularly onerous, improper and unfair burden upon the San Francisco, Oakland and San Jose Consolidated Railway and its successor, San Francisco-Oakland Terminal Railways, and that it conferred an improper benefit upon the United Light and Power Company (of California). The figures indicate that the railway company has been deprived of approximately \$183,000.00 as a result of this contract. The estimates of the extra burden heretofore imposed on the railways under this contract are as follows:

| | | |
|---------------------------|-------|---------------------|
| 1912 | ----- | \$55,000 00 |
| 1913 | ----- | 60,000 00 |
| 1914 | ----- | 53,000 00 |
| First four months of 1915 | ----- | 15,000 00 |
| Total | ----- | <u>\$183,000 00</u> |

These railway properties were entitled to the very best that the interests in control of them could do for them. Instead, I find that, with apparently deliberate design, the railway company through the veiled subterfuge of a contract, has been compelled to divert from its funds, improperly and unfairly, more than \$50,000.00 per year. These sums have been diverted at a time when, both for the protection of its stockholders and creditors and in the interest of the public, it was mandatory that San Francisco-Oakland Terminal Railways husband its every resource.

The parties responsible for this contract have not yet undone the wrong which the making of the contract involved. It should be stated that the contract in question was made under a former management and not by the present operating head of the San Francisco-Oakland Terminal Railways.

This contract was discovered by this Commission during the hearings upon Application No. 990, and the Commission's investigations have continued up to this time.

It should be stated also that the present management of San Francisco-Oakland Terminal Railways, in response to the inquiries of this Commission, reported under date of January 11, 1915, its opinion that the contract is unjust and oppressive, and stated that it had contemplated legal proceedings for its abrogation. This report, signed by Mr. George K. Weeks, at this time president of San Francisco-Oakland Terminal Railways, is in part as follows:

"I have for acknowledgment your communication of the 8th instant requesting early advices as to whether the contract heretofore filed with your Commission in Applications Nos. 990 and 1152, covering the purchase of power from the United Light and Power Company, is still in force; also requesting a complete record of all other power contracts under which this company is purchasing power.

"Answering the first part of your inquiry, I regret to be obliged to advise you that this company is still operating under the terms of the lease and agreement for the purchase of power purported to have been entered into on December 30, 1911, between the San Francisco, Oakland and San Jose Consolidated Railways and the United Light and Power Company of California.

"The present officers of this company are of the opinion that the arrangement established by the documents referred to is unjust and oppressive to this company in that the Yerba Buena steam power plant owned by this company, the interest on the investment in which is paid by this company and the depreciation of which must ultimately be borne by this company, is by this arrangement purported to be leased for a nominal consideration, while at the same time this company is paying the United Light and Power Company at the rate of \$.01125 per kilowatt hour for current, the generation of which, according to the best figures in our possession,

has cost the United Light and Power Company from \$.022½ to \$.005 less than the contract price.

“The present management of this company on assuming the responsibilities of office last September seriously proposed to institute legal proceedings for the abrogation of this contract and have postponed doing so solely for the reason that there seemed to be ground for believing that amicable arrangements might be made which would afford relief from the inequitable provisions of this contract more expeditiously and with greater certainty than through recourse to the courts.”

Until Mr. Weeks assumed the presidency of these properties, no responsible official connected with the railway company had sought through this Commission the abrogation of these contracts.

In passing upon this matter, I feel obliged to call into serious question the good faith of that type of promoter or financier who, posing as the protector and savior of public utility property in the State of California, is at the same time faithless to the interests of the very public utility properties which he is paid to protect. This same type of promoter holds it to be his privilege to divert to his own advantage the public utility funds that come within the purview of his trust, regardless of the injury worked upon the bondholders, the stockholders or the public; and when the mischief he has wrought reduces the utility to the brink of bankruptcy, he insists—still posing as the savior of the utility he has betrayed—that this Commission should restore through inflated findings of value the financial strength which he has sapped from the utility.

Fortunately there are few remaining of this type of financial wreckers in the public utility field in the State of California.

It is only occasionally that this Commission still encounters a situation such as is found in the power contract heretofore referred to. The public utility business of this State is now being conducted on a high plane, and, as in this case, we find that public utility men working with high purposes are among the foremost to set themselves in opposition to practices such as those which are represented by this objectionable power contract.

In view of these facts, as heretofore recited, I find as a fact that the rate for power charged by United Light and Power Company (of California) to San Francisco-Oakland Terminal Railways under the contract called into question in these proceedings is unjust, unfair and unreasonable in that it imposes an improper burden upon San Francisco-Oakland Terminal Railways. Accordingly I recommend that the parties be directed to confer with a view to submitting to this Commission a new rate for power which shall be just and reasonable.

In Application No. 1542, being the application of United Light and Power Company (of California) and subsidiary corporations for an order authorizing certain acts in connection with a proposed reorganization, a proposed contract for the sale of electric power to San Francisco-Oakland Terminal Railways was presented by Consolidated Electric Company, the proposed successor of United Light and Power Company (of California). This contract was not signed by San Francisco-Oakland Terminal Railways. Consideration will be given to such contract as may be signed by the parties of such instrument.

I recommend the following form of order:

ORDER.

The Railroad Commission having on its own initiative instituted an investigation into the rate paid by San Francisco-Oakland Terminal Railways to United Light and Power Company (of California) for electric energy, and into all contracts and other arrangements in connection therewith, and public hearings having been held and this case being now ready for decision,

The Railroad Commission hereby finds as a fact that the rate paid by San Francisco-Oakland Terminal Railways to United Light and Power Company (of California) for electric energy is unjust and unreasonable and imposes an unfair and unjust burden on San Francisco-Oakland Terminal Railways. Basing its conclusion upon this finding of fact and on the further findings of fact contained in the opinion which precedes this order,

It is hereby ordered, by the Railroad Commission of the State of California, that San Francisco-Oakland Terminal Railways and United Light and Power Company (of California), or its successors in interest, immediately take up the question of an agreement upon a new, just and equitable rate to be paid for electric energy supplied by United Light and Power Company (of California), or its successors in interest, to San Francisco-Oakland Terminal Railways, and that said companies report to this Commission on or before May 20, 1915, their conclusions with a copy of such new contract, if any, as they may have executed in the premises, subject to the Railroad Commission's approval. Such supplemental order as may seem appropriate will then be made.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2359.

IN THE MATTER OF THE REORGANIZATION OF UNITED LIGHT AND POWER COMPANY AND SUBSIDIARY COMPANIES.

Application No. 1542.

Decided May 10, 1915.

Applicant's plans of reorganization include the transfer by United Light and Power Company and subsidiary companies of all of their property to E. W. Wilson, the transfer of such properties from Wilson to the Consolidated Electric Company, the execution of a mortgage by Consolidated Electric Company and the issuance by said company of 100 shares of its capital stock of the par value of \$100.00 per share to the Great Western Power Company; the issuance of \$2,593,000.00, face value, forty-year bonds; \$2,207,000.00 to E. W. Wilson in payment for properties transferred; \$243,000.00 to be exchanged for certain bonds of companies to be acquired; \$71,000.00 to Great Western Power Company as consideration for guarantee of principal and interest of bonds of the Consolidated Electric Company, and \$72,000.00 for expenses; the Great Western Power Company to guarantee the payment of principal and interest of Consolidated Company's bonds and to purchase \$400,000.00 face value of such bonds from E. W. Wilson; Consolidated Company to enter into a contract with San Francisco-Oakland Terminal Railways for the delivery of energy to the railway company, which contract shall be guaranteed by Great Western Power Company; E. W. Wilson to acquire stock of all companies proposed to be transferred, amounting to 870,986 shares of the par value of \$10.00 per share and 30,000 shares of the par value of \$100.00 per share, and to sell such stock to the Consolidated Electric Company. The holders of the three-year notes of the United Light and Power Company (of New Jersey) to receive Consolidated Company's bonds at par equal to 90 per cent of such notes, bondholders of various operating companies to receive bonds of Consolidated Company to be exchanged at their par value and the unsecured creditors to receive 66⅔ per cent of the amount due, 10 per cent of which is to be paid in cash, the balance in bonds of the Consolidated Company.

In a general review of the financial conditions of the various companies included in this application and a valuation of their respective properties, it is shown that the actual value of the property to be acquired is considerably below the amount of bonds which Consolidated Company requests permission to issue. That considering merely property values, the Commission would be obligated to deny this application were it not that the present companies are practically bankrupt, with an ever increasing deficit which would not permit of their being reorganized and placed on a solvent footing, which, together with consideration of the guarantee of the Great Western Power Company and the claim of such company that, if consolidated, these utilities can be placed on a self-sustaining basis, establishes sufficient grounds to warrant an authorization of bonds as here applied for, as such guarantee should be given considerable more weight than would otherwise be the case.

Held, Application granted, excepting the approval of the contract with San Francisco-Oakland Terminal Railways. As the railway company had not joined in that portion of the application, same is dismissed without prejudice, as is also the application of the Great Western Power Company to guarantee the performance thereof. Authorization also conditioned upon the proviso that the \$400,000.00 face value of bonds contracted to be purchased by the Great Western Power Company shall be purchased and placed in a special sinking fund which Consolidated Company's trust deed shall be amended as provided for, as shall also the \$71,000.00 face value of bonds issued to Great Western Power Company as compensation for guarantees and discounts, and provided, further, that this authorization shall not be considered as establishing a value

of the properties herein authorized to be transferred, nor shall the guarantee of the Great Western Power Company be used to impose greater rates on patrons of such company other than reasonable rates based on a fair valuation of its properties.

Guy C. Earl and Chaffee Hall, for Consolidated Electric Company and Great Western Power Company.

Morrison, Dunne & Brobeck, by *W. I. Brobeck*, for San Francisco-Oakland Terminal Railways.

R. P. Henshall, for United Light and Power Company and subsidiary companies.

Walter H. Linforth and J. P. Luccy, for William C. Osborn, Protestant. *G. G. Hatch*, for Henry Cowell Lime and Cement Company, Protestant.

J. C. Campbell and Joseph Kirk, for certain unsecured creditors of United Light and Power Company and subsidiary companies.

Gavin McNab, in *propria persona*.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

Applicants, United Light and Power Company (of California), Equitable Light and Power Company, Consumers Light and Power Company, Southside Light and Power Company, Central Oakland Light and Power Company, United Light and Power Company (of New Jersey), Consolidated Electric Company, Great Western Power Company and E. W. Wilson in this proceeding, ask this Commission for an order authorizing:

(1) United Light and Power Company (of California), Equitable Light and Power Company, Consumers Light and Power Company, Southside Light and Power Company, Central Oakland Light and Power Company, and United Light and Power Company (of New Jersey), to sell, transfer and convey to E. W. Wilson of the city and county of San Francisco, all of their property of every kind whatsoever;

(2) E. W. Wilson to transfer to Consolidated Electric Company, and said company to purchase from said E. W. Wilson, said property;

(3) Consolidated Electric Company to execute a mortgage and deed of trust in the form filed herewith to secure the payment of the principal and interest upon its 5 per cent forty year gold bonds in the aggregate face amount of \$3,000,000.00.

(4) Consolidated Electric Company to issue all of its capital stock, consisting of 100 shares of the par value of \$100.00 per share, to Great Western Power Company, excepting such shares as may be necessary to qualify directors;

(5) Consolidated Electric Company to issue its 5 per cent forty year gold bonds to be secured by said mortgage in the face amount of \$2,593,000.00, and to use said bonds or the proceeds thereof for the following purposes:

(a) Two million two hundred and seven thousand dollars face value of bonds to be delivered to E. W. Wilson in payment of the purchase price of properties hereinbefore described;

(b) Two hundred and forty-three thousand dollars face value of bonds to be issued from time to time in exchange for a like amount of bonds of Consumers Light and Power Company and of Central Oakland Light and Power Company;

(c) Seventy-one thousand dollars face value of bonds to be issued to Great Western Power Company in part consideration for the guaranty by said Great Western Power Company of the principal and interest upon the bonds of Consolidated Electric Company, and the performance of a proposed contract between Consolidated Electric Company and San Francisco-Oakland Terminal Railways;

(d) Seventy-two thousand dollars face value of bonds to be issued for the payment of expenses incident to rehabilitating the aforesaid properties to be purchased from said E. W. Wilson.

(6) Great Western Power Company to guarantee the payment of the principal and interest upon the bonds of Consolidated Electric Company, to be issued under the aforesaid mortgage or deed of trust;

(7) Great Western Power Company to purchase \$400,000.00 face value of bonds of Consolidated Electric Company from E. W. Wilson, as per agreement marked Exhibit No. 6 attached to this application;

(8) Consolidated Electric Company to execute a contract marked Exhibit No. 4 for the delivery of electric energy to the San Francisco-Oakland Terminal Railways;

(9) Great Western Power Company to guarantee the performance by Consolidated Electric Company of the contract referred to in paragraph 8;

(10) Great Western Power Company to purchase the capital stock of Consolidated Electric Company as aforesaid;

(11) E. W. Wilson to acquire:

(a) Nine thousand two hundred and forty-eight shares of the par value of \$10.00 each of common stock of Consumers Light and Power Company;

(b) Fifty thousand shares of the par value of \$10.00 each of common stock of Equitable Light and Power Company;

(c) Twenty-five thousand shares of the par value of \$10.00 each of preferred stock of Equitable Light and Power Company;

(d) Seventy thousand two hundred and eight shares of the par value of \$10.00 each of common stock of Central Oakland Light and Power Company;

(e) Eighteen thousand seven hundred and seven shares of the par value of \$10.00 each of preferred stock of Central Oakland Light and Power Company;

(f) Seventy-five thousand shares of the par value of \$10.00 each of common stock of Southside Light and Power Company;

(g) Twenty-five thousand shares of the par value of \$10.00 each of preferred stock of Southside Light and Power Company;

(h) Thirty thousand shares of the par value of \$100.00 each of common stock of United Light and Power Company (of New Jersey);

(i) Three hundred and ninety-eight thousand two hundred and thirteen shares of the par value of \$10.00 each of the common stock of United Light and Power Company (of California);

(j) One hundred and ninety-nine thousand six hundred and ten shares of the par value of \$10.00 each of preferred stock of United Light and Power Company (of California).

(12) E. W. Wilson to sell and Consolidated Electric Company to purchase the stock of the companies mentioned in the last preceding paragraph.

United Light and Power Company (of California), Central Oakland Light and Power Company, Consumers Light and Power Company, Equitable Light and Power Company and Southside Light and Power Company (hereinafter referred to collectively as the "operating companies") are engaged in the business of generating, producing, distributing and selling electric energy, steam and hot water in the city and county of San Francisco and in the city of Oakland.

Central Oakland Light and Power Company was organized January 25, 1909, to construct and operate electric and steam plants in the city of Oakland.

Consumers Light and Power Company was organized February 26, 1908, to construct and operate electric and steam plants in that part of the city and county of San Francisco located north of Market street and east of Powell street.

Equitable Light and Power Company was organized March 22, 1909, to construct and operate electric and steam plants in that part of the city and county of San Francisco located north of Market street and west of Powell street.

Southside Light and Power Company was organized May 3, 1910, to construct and operate electric and steam plants in that part of the city and county of San Francisco located south of Market street.

Though separate corporate records have been kept for each of these four companies, they have to a large extent been under a single and unified management.

On May 4, 1910, the so-called Smith-Hanford-Tewis interests organized the United Light and Power Company (of California) to take over the control of Consumers Light and Power Company, Equitable Light and Power Company, Southside Light and Power Company and Central Oakland Light and Power Company. While United Light and Power Company (of California) was organized to aid in financing the aforementioned companies, it has leased and operates the so-called Yerba Buena power station of San Francisco-Oakland Terminal Railways, located in Oakland.

On January 6, 1911, the so-called Smith-Hanford-Tewis interests caused the organization of United Light and Power Company (of New Jersey). This company, though its articles of incorporation are general, is primarily a holding company. It owns more than 96 per cent of the stock of United Light and Power Company (of California), which in turn controls through majority stock ownership the Central Oakland

Light and Power Company, Consumers Light and Power Company, Equitable Light and Power Company and Southside Light and Power Company.

Because of their inability to secure funds for adequate financing, due to the overloading of these properties with bonds at their inception, these utilities have had to face a persistent struggle for existence. Recently there was a default in the payment of interest upon outstanding securities. Negotiations have been carried on for a sale of these properties to Great Western Power Company. For the purpose of acquiring these properties, Great Western Power Company has organized the Consolidated Electric Company.

The operating companies, as well as United Light and Power Company (of New Jersey), now request authority to sell, transfer and convey all their property to E. W. Wilson, who in turn is to sell, transfer and convey the property thus acquired to Consolidated Electric Company, the stock of which will be owned by Great Western Power Company.

Under the proposed plan of reorganization, all of the stock (\$10,000.00) of Consolidated Electric Company, except such shares as may be necessary to qualify directors, are to be issued and delivered to Great Western Power Company. The holders of the three-year collateral trust gold notes of United Light and Power Company (of New Jersey) are to receive bonds at par of Consolidated Electric Company in amounts equal to 90 per cent of the face value of the notes held by them. The holders of bonds of the various operating companies are to receive for the full face value of their bonds, bonds of Consolidated Electric Company at par. The unsecured creditors are to receive 66⅔ per cent of the amount due to them. Of the 66⅔ per cent, 10 per cent is to be paid in cash and the balance in bonds of Consolidated Electric Company at par. I shall refer again to the proposed reorganization plan, after having considered the following matters:

- (1) Stock of operating companies and United Light and Power Company (of New Jersey);
- (2) Funded debt of operating companies and United Light and Power Company (of New Jersey);
- (3) Unsecured indebtedness of operating companies and United Light and Power Company (of New Jersey);
- (4) Earnings and expenses of operating companies;
- (5) Assets and liabilities of operating companies and United Light and Power Company (of New Jersey);
- (6) Value of property of operating companies.

1. Stock of Operating Companies and United Light and Power Company (of New Jersey).

Applicants' Exhibit No. 9, submitted in connection with this application, shows the following:

| Name of company | Common stock | | | Preferred stock | | |
|--|--------------|-------------------------------|------------|-----------------|-------------------------------|------------|
| | Authorized | Owned by affiliated companies | | Outstanding | Owned by affiliated companies | |
| | | Outstanding | Held | | Held | Pledged |
| Central Oakland Light and Power Company-- | \$1,000,000 | \$946,100 | 1412,270 | \$230,200 | 182,150 | 18184,920 |
| Consumers Light and Power Company-- | 100,000 | 100,000 | 15,150 | | | |
| Equitable Light and Power Company-- | 500,000 | 500,000 | 187,330 | | | |
| Southside Light and Power Company-- | 750,000 | 750,000 | 1500,000 | 250,000 | | 1950,000 |
| United Light and Power Company (of California) ----- | | | 1250 | 250,000 | 1250 | 1240,750 |
| United Light and Power Company (of New Jersey) ----- | 4,000,000 | 3,982,130 | 9682,130 | 1,990,100 | 4452,570 | 21,500,000 |
| | 3,000,000 | 3,000,000 | 23,000,000 | | | |

Owned by United Light and Power Company (of California).
 Owned by United Light and Power Company (of New Jersey).
 \$170,338.00 owned by The United Properties Company of California, and \$811,732.00 by United Light and Power Company (of New Jersey).
 Owned by United Light and Power Company (of New Jersey).
 Owned as per exhibit by Hanford Investment Company. Report does not show whether same is pledged or not.

Mr. James E. Old, auditor of United Light and Power Company (of California) testified that in preparing Exhibit No. 9, he did not consult the stock ledger and journal of the various companies. While the exhibit shows that the stock of United Light and Power Company (of New Jersey) is held by Hanford Investment Company, other evidence indicates that a part of this stock is owned by The United Properties Company of California. The ownership of the stock is material to the extent of assuring a valid title to the property and as bearing upon protests against an authorization as prayed for in this application.

The foregoing table shows that approximately 27.2 per cent of the common and 18.7 per cent of the preferred stock of Central Oakland Light and Power Company is held by the general public. The general public is also shown by the exhibits to hold approximately 2.2 per cent of the outstanding preferred stock of United Light and Power Company (of California).

2. Funded Debt of Operating Companies and United Light and Power Company (of New Jersey).

Exhibit No. 9, to which reference has heretofore been made, shows funded debt as follows:

| Name of company | Nature of obligation | Term | | Rate of interest | Total face value authorized | Total face value outstanding | Held by trustee or affiliated companies | | | Owned by general public |
|--|----------------------|---------------|------------------|------------------|-----------------------------|------------------------------|---|-------------|-----------|-------------------------|
| | | Date of issue | Date of maturity | | | | Reserved to retire underlying | Pledged | Held | |
| Central Oakland Light and Power Company | Bonds | May 1, 1909 | May 1, 1939 | 5 | \$800,000 | \$493,000 | | \$350,000 | | \$143,000 |
| Consumers Light and Power Company | Bonds | Apr. 15, 1908 | Apr. 15, 1933 | 6 | 100,000 | 100,000 | | | | 100,000 |
| Equitable Light and Power Company | Bonds | Apr. 30, 1910 | Apr. 30, 1935 | 6 | 750,000 | 365,000 | | 365,000 | | |
| Southeast Light and Power Company | Bonds | Aug. 1, 1910 | Aug. 1, 1940 | 6 | 1,000,000 | 400,000 | | 400,000 | | |
| United Light and Power Company (of California) | Bonds | Oct. 1, 1910 | Oct. 1, 1945 | 6 | 4,000,000 | 3,060,000 | \$243,000 | 2,023,000 | \$250,000 | 534,000 |
| United Light and Power Company (of New Jersey) | Notes | Dec. 1, 1911 | Dec. 1, 1914 | 6 | 3,000,000 | 1,618,000 | | | | 1,618,000 |
| Totals | | | | | \$9,650,000 | \$6,666,000 | \$243,000 | \$3,138,000 | \$260,000 | \$2,395,000 |

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Bonds of United Light and Power Company (of California) to the face value of \$2,023,000.00 are pledged with Bankers Trust Company of New York to secure the payment of \$1,618,000.00 face value three-year collateral trust notes of United Light and Power Company (of New Jersey). United Light and Power Company (of California) owns and has hypothecated with Central Trust Company of New York bonds in the following amounts:

- \$350,000.00 face value of bonds of Central Oakland Light and Power Company.
- \$365,000.00 face value of bonds of Equitable Light and Power Company.
- \$400,000.00 face value of bonds of Southside Light and Power Company.

Consolidated Electric Company seeks authority to execute a mortgage or deed of trust to Anglo-California Trust Company of San Francisco securing the payment of \$3,000,000.00 face value general mortgage 5 per cent forty-year gold bonds. The lien of the mortgage or deed of trust is to cover all the property of Consolidated Electric Company now owned or hereafter acquired. The trust estate includes:

- (a) Nine thousand two hundred and forty-eight shares of the par value of \$10.00 each of common stock of Consumers Light and Power Company.
- (b) Fifty thousand shares of the par value of \$10.00 each of common stock of Equitable Light and Power Company.
- (c) Twenty-five thousand shares of the par value of \$10.00 each of preferred stock of Equitable Light and Power Company.
- (d) Seventy thousand two hundred and eight shares of the par value of \$10.00 each of common stock of Central Oakland Light and Power Company.
- (e) Eighteen thousand seven hundred and seven shares of the par value of \$10.00 each of preferred stock of Central Oakland Light and Power Company.
- (f) Seventy-five thousand shares of the par value of \$10.00 each of common stock of Southside Light and Power Company.
- (g) Twenty-five thousand shares of the par value of \$10.00 each of preferred stock of Southside Light and Power Company.
- (h) Thirty thousand shares of the par value of \$100.00 each of common stock of United Light and Power Company (of New Jersey).
- (i) Three hundred and ninety-eight thousand two hundred and thirteen shares of the par value of \$10.00 each of common stock of United Light and Power Company (of California).
- (j) One hundred and ninety-nine thousand six hundred and ten shares of the par value of \$10.00 each of preferred stock of the United Light and Power Company (of California).

The proposed mortgage or deed of trust of Consolidated Electric Company provides that \$2,350,000.00 face value of bonds shall be delivered to the company immediately upon the execution and delivery

of this instrument. It provides, also, that \$243,000.00 face value of bonds shall be reserved to retire:

(a) One hundred thousand dollars face value of general mortgage 6 per cent sinking fund twenty-five year gold bonds of Consumers Light and Power Company, issued under a deed of trust dated April 15, 1908; and

(b) One hundred and forty-three thousand dollars face value of first mortgage 5 per cent sinking fund thirty-year gold bonds of Central Oakland Light and Power Company issued under a deed of trust dated May 1, 1909.

Bonds to the face value of \$407,000.00 are appropriated to defray the cost of future extensions, additions and betterments. The proposed deed of trust permits the company to issue these bonds in amounts equal to the cost of extensions, additions and betterments, regardless of the earnings of the company.

The proposed deed of trust makes no provision for a sinking fund. It, however, provides that on and after July 1, 1920, the company may call for redemption any or all of the bonds at par.

Hereinafter I shall refer to the necessity of a sinking fund as well as to the guarantee by Great Western Power Company.

3. Floating Indebtedness of Operating Companies and United Light and Power Company (of New Jersey).

The operating companies and United Light and Power Company (of New Jersey), exclusive of amounts due to system corporation, report a floating indebtedness aggregating \$723,905.46. The amount consists of the following items:

| | | |
|--|--------------|--------------|
| Notes payable ----- | | \$401,216 13 |
| Due Merchants National Bank ----- | \$2,443 21 | |
| Due Central National Bank of Oakland ----- | 10 50 | |
| Due Hanford Investment Company ----- | 236,051 53 | |
| Due general public ----- | 162,710 89 | |
| Accounts payable ----- | | 322,690 33 |
| Due Hanford Investment Company ----- | \$127,073 42 | |
| Due Tevis-Hanford Company ----- | 4,941 93 | |
| Due general public ----- | 190,674 98 | |
| Total ----- | | \$723,905 46 |

If the reorganization plan as herein outlined is carried into effect, Hanford Investment Company and Tevis-Hanford Company have agreed to cancel the indebtedness due to them. It is further understood that all amounts due from or to system corporations will be cancelled.

Mr. J. C. Campbell and Mr. Joseph Kirk, representing unsecured creditors, whose claims aggregate over \$300,000.00, have petitioned the Commission to grant this application. The unsecured creditors whom they represent seem to be of the opinion that in case of foreclosure,

they will receive nothing. In view of this situation they have agreed to accept in payment for their claims 66 $\frac{2}{3}$ per cent of their face value. Of this, 10 per cent is to be paid in cash and the balance in bonds of Consolidated Electric Company at par.

4. Earnings and Expenses of Operating Companies:

United Light and Power Company (of New Jersey) is not an operating company. The evidence submitted in connection with this application shows the earnings and expenses of the operating companies for the year ended December 31, 1914, to have been as follows:

| Item | Central Oakland Light and Power Company | Consumers Light and Power Company | Equitable Light and Power Company | Southside Light and Power Company | United Light and Power Company (of California) | Total |
|---|---|---|---|---|---|--------------|
| I. Income statement: | | | | | | |
| Operating revenue | \$120,440 31 | \$164,038 14 | \$120,136 33 | \$57,580 30 | \$151,532 19 | \$613,727 27 |
| Operating expenses | 105,759 99 | 120,846 24 | 88,818 34 | 56,234 13 | 105,701 64 | 477,360 34 |
| Net operating revenue | \$14,680 32 | \$43,191 90 | \$31,317 99 | \$1,346 17 | \$45,830 55 | \$136,366 93 |
| Other income: | | | | | | |
| Miscellaneous non-operating revenue | \$362 00 | \$3,647 99 | \$3,472 06 | \$30 45 | \$1,774 37 | \$9,286 87 |
| Interest revenues | | | 120 00 | | 63,399 98 | 63,519 98 |
| Rents accrued | | | | | 7,138 44 | 7,138 44 |
| Total other income | | | | | \$72,312 79 | \$79,945 29 |
| Gross corporate income | \$15,042 32 | \$46,839 89 | \$34,910 05 | \$1,376 62 | \$118,143 34 | \$216,312 22 |
| Deductions: | | | | | | |
| Interest on funded debt | \$24,649 96 | \$6,000 00 | \$21,900 00 | \$24,000 00 | \$148,320 10 | \$224,869 96 |
| Other interest | 39 79 | 2 70 | 36 94 | | 26,644 06 | 26,723 49 |
| Rent | 240 75 | 2,198 64 | 475 00 | 7,138 44 | 1 00 | 10,053 83 |
| Miscellaneous non-operating expenses | | 4,925 29 | 3,548 52 | | 2,556 00 | 5,917 81 |
| Total deductions | \$24,930 50 | \$13,126 63 | \$25,960 46 | \$31,138 44 | \$172,409 06 | \$267,565 09 |
| Loss for year | \$9,888 18 | | | | | |
| Surplus for year | | \$33,713 26 | \$8,949 59 | \$29,761 82 | \$54,265 72 | \$51,252 87 |
| II. Surplus account: | | | | | | |
| Surplus beginning of year | \$79,635 93 | \$7,203 43 | \$34,778 70 | \$52,657 91 | \$117,653 93 | |
| Net surplus adjustments | 253 58 | 518 94 | 121 77 | 933 20 | 13,556 07 | |
| Adjusted surplus as of beginning of year | \$80,199 51 | \$6,684 49 | \$34,656 93 | \$51,724 71 | \$121,210 05 | |
| Net income for year | \$9,888 18 | \$33,713 26 | \$8,949 59 | \$29,761 82 | \$54,265 72 | |
| Net surplus additions and deductions for year | | | | | | |
| Total income and surplus for year | \$9,888 18 | \$33,713 26 | \$8,949 59 | \$29,761 82 | \$54,265 72 | |
| Surplus end of year | \$90,087 69 | \$27,028 77 | \$25,707 34 | \$81,486 53 | \$175,475 77 | |

¹Deficit. ²Credit. ³Loss.

The evidence further shows the sources of revenue of various companies to have been for the year ending December 31, 1914:

| Name of company | Electric | | Steam sales | | Miscellaneous | | Total | |
|---|--------------|----------|--------------|----------|---------------|----------|--------------|----------|
| | Amount | Per cent | Amount | Per cent | Amount | Per cent | Amount | Per cent |
| Central Oakland Light and Power Company-- | \$106,120 96 | 88.11 | \$14,258 20 | 11.84 | \$61 15 | .05 | \$120,440 31 | 100 |
| Consumers Light and Power Company----- | 107,607 15 | 65.60 | 56,439 50 | 34.40 | *8 51 | ----- | 164,088 14 | 100 |
| Equitable Light and Power Company----- | 77,001 60 | 46.09 | 43,203 64 | 35.96 | *68 91 | .05 | 120,196 83 | 100 |
| Southside Light and Power Company----- | 45,322 88 | 78.64 | 12,298 14 | 21.36 | *40 72 | ----- | 57,580 80 | 100 |
| United Light and Power Company (of California)----- | 151,432 42 | 99.99 | ----- | ----- | 99 77 | .01 | 151,532 19 | 100 |
| Totals ----- | \$487,485 01 | 79.43 | \$126,199 48 | 20.56 | \$42 78 | .01 | \$613,727 27 | 100 |

*Credit.

During the year ending December 31, 1914, the operating companies regarded as a unit sustained a loss of \$51,252.87. Applicants' Exhibit No. 11, prepared by Mr. W. W. Briggs, general agent for Great Western Power Company, estimates that a surplus of \$79,036.93 could have been earned had Consolidated Electric Company operated the various plants and systems. This change from a loss to a surplus, he contends, would have been effected chiefly by a reduction in the administration, maintenance and operating expenses, and a reduction in bond interest charges.

In a statement dated April 16, 1915, Mr. W. W. Briggs estimates that if the proposed reorganization plan is approved, Consolidated Electric Company for 1915 will have a net income, after paying operating expenses, taxes and interest, amounting to \$96,197.66. The increase in the net income for 1915, as compared with his estimates for 1914, will accrue, according to his contention, from a normal increase in the business, and from the placing of consumers of steam on a meter basis as rapidly as the flat rate contracts expire.

Mr. Mortimer Fleishhacker, president of Great Western Power Company, testified as follows in regard to the prospective earnings of Consolidated Electric Company (Transcript, page 87):

"The estimates which I have made rather show that almost from the beginning, or very soon from the time we take over the property, we will be able to earn the interest on these bonds. I don't think there will be any surplus in the beginning, but eventually we may earn some surplus and in that way in the end make a profit."

5. Assets and Liabilities of Operating Companies.

The operating companies report in exhibits attached to this application, assets and liabilities as of December 31, 1914, as follows:

| Items | Central Oakland Light and Power Company | Consumers Light and Power Company | Equitable Light and Power Company | Southside Light and Power Company | United Light and Power Company (of California) | Consolidated balance sheet |
|---|---|---|---|---|---|-------------------------------|
| Consolidation and acquirement accounts----- | | | | | | \$6,461,580 62 |
| Fixed capital----- | \$801,500 00 | \$99,850 00 | \$753,840 62 | \$1,199,500 00 | | 2,881,069 06 |
| Investments----- | 1,133,054 31 | 490,509 28 | 690,352 59 | 50,000 00 | \$467,152 88 | 298,280 00 |
| Treasury securities----- | | | 2,000 00 | | 7,747,700 00 | |
| Cash and deposits----- | | | | | 243,000 00 | 4,629 70 |
| Accounts receivable----- | 957 20 | 60 00 | | | 3,612 50 | |
| Notes receivable----- | 21,435 22 | 38,650 09 | 177,985 76 | 31,181 13 | 1,635,728 06 | 32,763 53 |
| Interest and dividends receivable----- | 5,525 00 | | 126 55 | | 27,111 98 | 591,077 77 |
| Materials and supplies----- | | | | | | 240 00 |
| Other current assets----- | | | 43 40 | | 44,083 99 | 44,127 39 |
| Accruing assets----- | | 40 46 | 257 54 | 2 40 | | 60 40 |
| Prepayments----- | | | 15 00 | | 16,556 66 | 15 00 |
| Contingent assets----- | 3,229 19 | 3,721 28 | 3,673 73 | 75,367 37 | 27,652 20 | 39,408 69 |
| Miscellaneous----- | 4,930 00 | 4,742 05 | | 4,130 82 | | 13,892 87 |
| Deficit----- | | | | | 10,000 00 | 10,000 00 |
| | 90,087 69 | | 25,707 34 | 81,486 53 | 173,475 77 | 345,728 56 |
| Totals----- | \$2,110,718 61 | \$637,673 16 | \$1,656,002 53 | \$1,441,668 25 | \$10,398,084 04 | \$10,722,783 59 |
| Capital stock--common----- | | | | | | |
| Capital stock--preferred----- | \$964,100 00 | \$100,000 00 | \$500,000 00 | \$750,000 00 | \$3,982,130 00 | \$4,251,670 00 |
| Funded debt----- | 230,200 00 | | 250,000 00 | 250,000 00 | 1,996,100 00 | 2,039,230 00 |
| Accounts payable----- | 493,000 00 | 100,000 00 | 365,000 00 | 400,000 00 | 3,060,000 00 | 3,060,000 00 |
| Notes payable----- | 414,270 57 | 405,062 94 | 537,222 89 | 31,608 26 | 748,752 26 | 823,614 43 |
| Interest accrued----- | | 3,000 00 | | | 411,491 79 | 417,491 79 |
| Insurance accrued----- | 4,108 32 | 1,250 00 | 3,650 00 | 10,000 00 | 42,255 00 | 44,696 66 |
| Unamortized premium on debt----- | 2 54 | 2 37 | 2 37 | | 3 75 | 13 40 |
| Reserves----- | | | | | 78,582 00 | 78,582 00 |
| Contingent liabilities----- | 107 18 | 79 08 | 127 27 | 57 62 | 101 16 | 472 31 |
| Miscellaneous----- | 4,930 00 | 1,250 00 | | | 1,433 00 | 7,613 00 |
| Surplus----- | | 27,028 77 | | | 74,235 08 | |
| Totals----- | \$2,110,718 61 | \$637,673 16 | \$1,656,002 53 | \$1,441,668 25 | \$10,398,084 04 | \$10,722,783 59 |

United Light and Power Company (of New Jersey) reports as of December 31, 1914, assets and liabilities as follows:

Assets—

| | |
|---|----------------|
| Securities of system corporation----- | \$4,760,311 36 |
| Current assets: | |
| Cash and deposits ----- | \$2,171 74 |
| Accounts receivable ----- | 413,901 64 |
| Interest and dividends receivable ----- | 301,680 00 |
| | <hr/> |
| Interest and dividends receivable accruing----- | 717,753 38 |
| Taxes unearned ----- | 34,245 00 |
| Taxes unearned ----- | 1,500 00 |
| Contingent assets ----- | 2,627,000 00 |
| Corporate deficit ----- | 292,506 61 |
| | <hr/> |
| Total assets ----- | \$8,433,316 35 |

Liabilities—

| | |
|--|----------------|
| Capital stock ----- | \$3,000,000 00 |
| Funded debt, three-year notes ----- | 1,618,000 00 |
| Current liabilities: | |
| Audited vouchers ----- | \$38,841 42 |
| Matured coupons ----- | 98,880 00 |
| Due United Light and Power Company of Cali- | |
| fornia ----- | 493,850 00 |
| Hanford Investment Company ----- | 80,929 89 |
| | <hr/> |
| Deferred liabilities (due Hanford Investment Company)----- | 712,501 31 |
| Contingent liabilities (due Hanford Investment Com- | 998,503 68 |
| pany, United Light and Power Company stock) ----- | |
| Treasury notes pledged and sold----- | \$1,253,311 36 |
| Treasury notes pledged and sold----- | 12,000 00 |
| Due A/C agreement with Hanford Investment | |
| Company dated December 29, 1911----- | 839,000 00 |
| | <hr/> |
| Total liabilities ----- | 2,104,311 36 |
| | <hr/> |
| Total liabilities ----- | \$8,433,316 35 |

6. Value of Property of Operating Companies.

Applicants, in Exhibit No. 12, report that the operating companies own or lease property as follows:

(A) UNITED LIGHT AND POWER COMPANY (CALIFORNIA).

General office, 511 Sutter street, San Francisco.

Leased from York Realty Company for five years from June 1, 1914, at a total rental of \$17,700.00; payable at rate of \$275.00 per month during first year and \$300.00 per month during last four years.

Office furniture and equipment owned by United Light and Power Company.

Warehouse—469 Stevenson street, San Francisco.

Rented from Whittell Realty Company at \$100.00 per month (no lease).

Office furniture and equipment, material and supplies in stock here, etc., owned by United Light and Power Company.

Yerba Buena Power Station—Thirty-sixth and Hannah streets, Oakland.

This plant supplies electric energy exclusively for operation of "Key Route" system of San Francisco-Oakland Terminal Railways. Generating capacity, 7,350 kilowatts; available boiler capacity, 5,500 horsepower.

Plant is leased from San Francisco-Oakland and San Jose Consolidated Railway for ten years from December 30, 1911.

Materials and supplies, tools, etc., equity in storage batteries is property of United Light and Power Company.

Southside Steam and Electric Plant—120 Minna street, San Francisco.

Real estate, improvements and all equipment is owned by United Light and Power Company and leased to Southside Light and Power Company.

(B) CONSUMERS LIGHT AND POWER COMPANY.

Main Steam and Electric Plant—Whitney Building, 133 Geary street, San Francisco.

This plant furnishes steam and electricity to the system. Generating capacity, 725 kilowatts; boiler capacity, 880 horsepower.

Basement in Whitney Building is leased for twenty years from April 1, 1908. Rental \$115,000.00, payable in two hundred and thirty equal monthly payments of \$500.00 each, from February 15, 1909.

With the exception of certain apparatus as specified in lease, all equipment is owned by the Consumers Light and Power Company.

Steam Plant—Sub-station—Manx Hotel, corner Powell and O'Farrell streets, San Francisco.

This plant furnishes steam only to the system operating only during winter months. Boiler capacity, 120 horsepower, which is used to feed the steam system.

Basement in Manx Hotel is leased for five years from August 1, 1910. Equipment was installed by Consumers Light and Power Company but is now owned by Manx Hotel Company, having been purchased by said hotel company for \$1,700.00. In consideration of above, Consumers Light and Power Company furnishes steam and electric current to hotel company for \$400.00 per month.

Steam Plant—Sub-station—Charleston Building, Bush and Kearny streets, San Francisco.

This plant furnishes steam only to the system, operating only during winter months. Boiler capacity, 40 horsepower, which is used to feed the steam system.

Basement in Charleston Building is leased for five years from September 30, 1910. Annual rental \$200.00, payable \$16.65 monthly.

Equipment consisting of one high pressure boiler and appurtenances is the property of Charleston Building.

In consideration of above, Consumers Light and Power Company furnishes Charleston Building with steam and electric current for \$500.00 per year.

(C) EQUITABLE LIGHT AND POWER COMPANY.

Main Steam and Electric Plant—Phelan Building, corner O'Farrell and Market streets, San Francisco.

This plant furnishes steam and electricity to the system. Generating capacity, 1,000 kilowatts; boiler capacity, 1,000 horsepower.

Basement in Phelan Building is leased for twenty-five years from January 2, 1909. Rental \$147,600.00, payable as follows: \$300.00 per month from January 2, 1909, to January 1, 1910; \$500 per month from January 2, 1910, to January 2, 1934.

Equipment is owned by Equitable Light and Power Company.

Steam Plant—Sub-station—Westbank Building, Ellis and Market streets, San Francisco.

This plant furnishes steam only to the system, operating only during winter months, excepting emergency cases. Boiler capacity 120 horsepower which is used to feed steam system.

Basement in Westbank Building is leased for ten years from August 16, 1909, also two boilers and appurtenances owned by Westbank Building, for which Equitable Light and Power Company pays a rental of \$100.00 per month.

All electrical equipment is owned by Equitable Light and Power Company.

In consideration of above, Equitable Light and Power Company furnishes steam and electric current to Westbank Building for \$400.00 per month.

(D) SOUTHSIDE LIGHT AND POWER COMPANY.

Main Steam and Electric Plant—120 Minna street, San Francisco.

This plant furnishes steam and electricity to the system. Present generating capacity, 1,000 kilowatts; present boiler capacity, 1,000 horsepower. Auxiliaries and steam headers installed for an ultimate capacity of 4,000 kilowatts.

Real estate, improvements, and all equipment is leased from United Light and Power Company (the holding company).

(E) CENTRAL OAKLAND LIGHT AND POWER COMPANY.

Office—1704 Broadway, Oakland.

Leased from Lucy Fay Thomson, for five years from July 29, 1914, for \$6,000.00, payable at the rate of \$100.00 per month.

Office furniture and equipment owned by Central Oakland Light and Power Company.

Main Generating Plant—Second and Alice streets, Oakland.

This plant supplies alternating current only to system (no steam). Total generating capacity, 2,000 kilowatts. Total boiler capacity, 1,488 horsepower.

Real estate, improvements and equipment consisting of lot, generating station, sub-station, warehouse, garage, and machine shop all owned by Central Oakland Light and Power Company.

Steam and Electric—Sub-station—St. Mark Hotel, Twelfth and Franklin streets, Oakland.

This plant furnishes all steam and electric direct current supplied by Central Oakland Light and Power Company. Generating capacity, 75 kilowatts. Boiler capacity, 240 horsepower.

Basement in St. Mark Hotel is leased for fifteen years from March 31, 1910, at \$125.00 per month.

With the exception of certain apparatus as specified in the lease, all equipment is owned by Central Oakland Light and Power Company.

In consideration of above, Central Oakland Light and Power Company furnishes steam, electricity, and water to St. Mark Hotel for \$810.00 per month.

(F) DISTRIBUTION SYSTEM (SAN FRANCISCO).

Steam Distribution System—Underground.

Approximately 25,570 feet of pipe in various sizes, of which 1,975 feet runs through the basements of buildings, giving a net total of 23,595 feet of pipe laid in the streets or an equivalent of 4.5 miles in the streets.

For details see report of Francis E. Wilkinson on file with application.

Electric Distribution System—Underground.

Approximately 26,146 feet of electric line in the streets or an equivalent of 5 miles in the streets. Electric distribution system follows the steam in the same trenches with exception of certain lines as shown in detailed report of Francis E. Wilkinson.

The above steam and electric distribution system is owned jointly by the Consumers Light and Power Company, Equitable Light and Power Company and United Light and Power Company (leased to Southside Light and Power Company), and the lines of the different companies are "tied in" in such manner that it is impossible to allocate consistently the ownership of each individual company.

(G) DISTRIBUTION SYSTEM—OAKLAND:

Steam Distribution System—Underground.

Approximately 4,200 feet of pipe in various sizes or an equivalent of .8 mile in the streets.

For detail see report of Francis E. Wilkinson on file with application.

Electric Distribution System—

Overhead system, 50,760 feet, or 9.6 miles.

Underground system, 15,450 feet, or 2.9 miles.

Included in the overhead system is an 11 kilovolt line to Idora Park, which is approximately 4.5 miles in length. Deducting this distance from the total overhead gives a figure of 5.1 miles as the length of the overhead system in Oakland.

For detail see report of Francis E. Wilkinson on file with application.

Steam mains in Oakland are laid in separate trenches from the electric mains.

The original cost of the various properties is estimated by the applicants to have been \$2,800,000.00. Applicants' Exhibit No. 10, prepared by Mr. Francis E. Wilkinson, an engineer in the employ of the Great Western Power Company, estimates the reproduction cost of the properties at \$2,221,242.83, and the present value at \$1,972,894.36. Mr. Gaskill S. Jacobs, of the electrical engineering department of this Commission, estimates the reproduction cost of these properties at \$1,556,746.00, and the present value at \$1,330,367.00.

Subsequent to the hearing the applicants filed a statement by Mr. Frederick G. Cartwright, to a large extent in agreement with the calculations by Mr. Wilkinson. Mr. Cartwright had revised the figures of Mr. Jacobs, and on the basis of this revision calculated the reproduction cost of these properties at \$2,127,241.00, and the present value at \$1,818,793.00. The applicants also filed a statement prepared by Mr. A. M. Hunt, consulting engineer, in which he directed attention to unusual cost units in connection with the construction of the properties of United Light and Power Company (of California) and its affiliated subsidiary corporations. The statements of Mr. Cartwright and Mr. Hunt, having been filed after the hearing, were not subjected to the scrutiny given the statements produced at the hearing. Mr. Cartwright and Mr. Hunt were not offered as witnesses by the applicants.

The examination of Mr. Wilkinson developed certain features of his appraisal that are clearly subject to general revision. Certain elements of Mr. Jacobs' estimate are also subject to revision.

The highest estimate of present value which the applicants offered was contained in Mr. Wilkinson's testimony and amounted, as heretofore mentioned, to \$1,972,894.36. I am of the opinion from a study of these figures and from the evidence of Mr. Wilkinson on cross-examination that detailed and exact finding of value would require a substantial reduction of this figure.

In connection with the estimates of value submitted by the applicants, many matters bearing on value must be taken into consideration, including the fact that much of this property is on leased sites. Some of the property itself is held under lease. Additions and permanent improvements have been built upon leased real estate. If I were to make an exact finding of value I should take into account this and kindred features of this situation which affect very decidedly the real value of these properties.

However, on the showing made by the applicants themselves, there are insufficient property values to sustain the amount of securities which it is proposed to issue. To state the case briefly, the highest estimate of present value which these applicants have submitted is the sum of \$1,972,894.36. At the same time this application is a request for authority to issue bonds in the sum of \$2,593,000.00. On the face of the showing made by the applicants themselves, they ask for authority to issue bonds approximately 33 $\frac{1}{3}$ per cent greater than their own estimate of the value of the property. We are obliged to look elsewhere, therefore, for a basis upon which to sustain this application.

Although the applicants insistently urged the matter of valuation in connection with this proceeding, I am frank to say that did the entire matter rest upon this one issue I should be obliged to recommend that the application be denied.

I have chosen, however, to look at this situation in its broader aspects. This matter has been presented as an effort to reorganize companies in a general condition of bankruptcy, if not in actual bankruptcy. They have defaulted in the interest on their bonds, and are accumulating a growing deficit, and their outstanding obligations far exceed their tangible property.

It has been urged that this Commission should authorize the securities which it is proposed to issue on the ground that it would result in a lessening of the obligations now outstanding. This, of course, could only be persuasive if the result would be a solvent corporation. It is my belief, however, that if the United Light and Power Company and affiliated corporations were obliged to stand alone, the reduction of indebtedness as herein proposed would still leave insolvent institutions which must sooner or later again encounter financial distress. It would avail little to authorize a reorganization of a financial wreck if the reorganized concern itself were a financial ruin at its very inception.

It seems to me the better policy for this Commission to announce its willingness to give its consent to such a reorganization as would leave a public utility in an improved financial condition, provided, always, that the utility as reorganized shall be at least solvent.

On the showing as presented by the applicants, the United Light and Power Company (of California) with its subsidiaries, as reorganized, standing by themselves, would not be such solvent corporations.

There remains, therefore, the final basis for this application, and that is the guarantee of the Great Western Power Company. It is proposed in this application that the properties now held by the United Light and Power Company (of California) and its subsidiary corporations shall pass into the hands of a new corporation to be known as "Consolidated Electric Company," and that the stock of the Consolidated Electric Company shall be owned by the Great Western Power Company. It is further proposed that the Great Western Power Company shall guarantee as to interest and principal the bonds which it is intended that the Consolidated Electric Company shall issue. If this is a firm guarantee, executed in good faith, as appears to be the intent, and fully fortified, it will serve to place the strength and credit of the Great Western Power Company behind the bonds of the Consolidated Electric Company.

While no appraisal of the properties of the Great Western Power Company has been submitted to this Commission, the affairs of this corporation have been reviewed in previous proceedings. This corporation has an outstanding bonded indebtedness of approximately \$22,425,000.00. It is urged on behalf of the Great Western Power Company that it has the financial ability to take care of such overplus of bonds as there may be in this situation beyond the value of the properties which the United Light and Power Company (of California) and its subsidiary corporations propose to transfer to the Consolidated Electric Company.

If we assume that Mr. Wilkinson's appraisal is correct, the overplus of bonds will amount to \$621,000.00. If we assume the appraisal of Mr. Jacobs to be correct, the overplus of bonds will amount to \$1,263,000.00. Under the showing as presented, therefore, the minimum which it may be assumed could be classed as chargeable against the Great Western Power Company would be \$621,000.00 of these bonds and the maximum \$1,263,000.00.

It has been urged by the Great Western Power Company that the unification of these properties and their absorption into the Great Western Power Company's system would result, through unified administration, in special benefits to the Great Western Power Company, which would not accrue to any other electric corporation in a position to purchase them.

Mr. Mortimer Fleishhacker, president of the Great Western Power Company, testified that a great saving could be made in the operation of the property now held by United Light and Power Company (of

California) and its subsidiary corporations; that the contract for the sale of power to the San Francisco-Oakland Terminal Railways would be a very profitable one to the Great Western Power Company; and that the additional steam service to be obtained through the acquisition of certain of the steam plants in San Francisco would increase the earning possibilities of the city electric plant, in subsidiary ownership of the Great Western Power Company. It was further urged on behalf of the Great Western Power Company that the acquisition of the United Light and Power Company properties would give it access to very desirable business in the central part of the city of Oakland. Mr. Fleishhacker made the following statement in advocacy of the acquisition of these properties by the Great Western Power Company (see Transcript, pages 84, 85, 86 and 87):

"In the first place, answering your question about the idea of junking this plant, I can say that we have no definite idea in regard to junking of any of the plants. Our only idea in doing that would be provided we could find a more economical method of producing the same results. In other words, if we can produce this current at some future time or the steam for steam heating at a less cost than the existing companies are producing it, we might decide to alter the present methods of production and discontinue the use of this property as it is now being used, but only to such an extent; my own idea is that we will one way or another continue to use these plants. We may not use them exactly as they are being used now. Some of them will be used as auxiliary plants, but I think we will continue to use them to a great extent. We will use the property whenever we can and we will endeavor not to discard any of them. I think, as a matter of fact, in the practical working out we will not discontinue the use of very much of it. Some of it may be moved from one place to another. In answering Senator Earl's question more specifically, my idea is that by combining this property with the existing system of the Great Western Power Company, we can work out many economies, and while this property is now in the red, and in operating as an independent property probably always will be in the red, and perhaps get more so as the property gets older, by incorporating it in the Great Western Power Company's system we can greatly reduce or materially reduce the expensive operation. In the first place, it happens that this property is more or less intermingled with the entire Great Western Power Company's system. In San Francisco, for example, we have a business office, the Great Western Power Company has solicitors and auditors and a book-keeping department, and we can take this right over. It will eliminate the question of salesmanship entirely. The customers are right on our lines and we can handle this business with very little additional overhead, and in that way we think we can eliminate the red entirely and show a slight profit to begin with on the basis that we have made our offer, and this will justify our guarantee of the bonds. Our idea in using as much of the

physical property as possible would naturally be so as not to have to resort to this guarantee, to make the property pay for itself, and so the Great Western Power Company will not be obliged to advance any of this money or to supplement the interest charges which we are taking upon ourselves. And the estimates which I have made rather show that almost from the beginning, or very soon from the time we take over the property, we will be able to earn the interest on these bonds. I don't think there will be any particular surplus in the beginning, but eventually we may earn some surplus, and in that way in the end make a profit."

If this were an entirely independent financial proposition, I should recommend to this Commission that it should not place its sanction upon the financial plan as outlined. I am willing to recommend a different determination of this matter on the sole ground of the willingness of Great Western Power Company, through its guarantee, to assume such additional obligations as may be herein involved and its assurance of its financial ability to assume those burdens. Of course, such a recommendation does not contain any recognition of the value of the properties involved in this matter other than their actual value, as that may be determined by this Commission when it shall find it necessary to determine such value. I have purposely avoided such a determination, merely summarizing the estimates which have been presented.

If it becomes necessary hereafter for this Commission to make findings as to rates for Consolidated Electric Company, such findings, of course, must be made in the usual and approved method and based upon the value of the property used and useful in the service.

The evidence of the financial ability of the Great Western Power Company, to a large extent, is the measure of its earnings as shown in its reports rendered to this Commission. For the calendar years 1913 and 1914, Great Western Power Company has submitted to this Commission the following statement of earnings and expenses:

| Items | Year ended December 31, 1913 | Year ended December 31, 1914 |
|--|---------------------------------|---------------------------------|
| Operating revenues ----- | \$1,815,702 58 | \$1,989,936 30 |
| Operating expenses ----- | 534,090 17 | 457,754 77 |
| Net operating revenue ----- | \$1,311,612 41 | \$1,532,141 53 |
| Other income— | | |
| Miscellaneous interest revenues ----- | 245,341 51 | 266,082 63 |
| Interest on funded debt owned ----- | 697 92 | 173 50 |
| Miscellaneous rent ----- | 6,849 10 | 9,915 03 |
| Miscellaneous non-operating revenue ----- | 6,067 50 | |
| Total other income ----- | \$258,956 06 | \$276,170 53 |
| Gross corporate income ----- | 1,570,568 47 | 1,808,312 06 |
| Deductions— | | |
| Interest accrued on funded debt ----- | \$999,678 31 | \$1,048,810 89 |
| Other interest deductions ----- | 49,575 33 | 57,888 18 |
| Rent ----- | 250,736 46 | 250,512 81 |
| Uncollectible bills ----- | 4,218 89 | 6,684 05 |
| Amortization of debt discount and expense ----- | | 3,534 80 |
| Total deductions ----- | \$1,304,209 02 | \$1,366,827 73 |
| Surplus for year carried to corporate surplus account ----- | 266,359 45 | 441,484 33 |
| Surplus beginning year ----- | 543,930 21 | 826,594 27 |
| Brought forward from income account ----- | 266,359 45 | 441,484 33 |
| Miscellaneous additions ----- | 32,085 26 | 745 28 |
| Miscellaneous deductions ----- | 15,780 65 | 100,245 41 |
| Surplus end of year ----- | \$826,594 27 | \$1,168,578 57 |

It appears from the testimony in this proceeding that the creditors, with a few exceptions, have signified in written form their agreement to the plan of reorganization as herein proposed. Out of a total of \$2,975,905.96 represented by creditors, all but the holders of less than \$1,000.00 have received payment or have joined in the plans of reorganization and have expressed in writing their willingness to accept in lieu of their present holdings the new securities which it is proposed that the Consolidated Electric Company shall issue. This plan appears to have the sanction of all interests directly involved and if, consistently, this Commission can approve its adoption, it is my desire and belief that the Commission should do so. This Commission, of course, could not be properly importuned to approve this plan if it contemplated an undue or unusual burden upon the present patrons of either United Light and Power Company and its subsidiaries or of the Great Western Power Company and its subsidiaries.

It will be my purpose to recommend in the order that such authorization as may be given shall contain the reservation that such issue of securities as may be approved shall not either directly or indirectly

be used as a basis to place an additional cost or burden upon any consumer or patron of any of the utilities herein concerned, beyond such cost as should properly be imposed, based upon the fair value of the properties involved.

It has been the experience of this Commission that a guarantee may be either an empty guarantee of words or a contract to be performed in good faith. We take it, of course, that in offering to guarantee the principal and interest of the bonds of Consolidated Electric Company, the Great Western Power Company means in good faith to stand sponsor if need be for these bonds.

In fact, the plan outlined in the submission of this matter to the Commission provides for the purchase by Great Western Power Company of \$400,000.00 of the bonds of Consolidated Electric Company which it is herein proposed to issue.

This agreement on the part of the Great Western Power Company is expressed in a contract with Mr. E. W. Wilson (marked Exhibit No. 6) in connection with this application. This contract provides that the Great Western Power Company shall purchase from E. W. Wilson, or his nominee or nominees, at par, \$400,000.00 face value of bonds of Consolidated Electric Company, as follows:

One hundred thousand dollars face value to be purchased upon the execution of the agreements conveying the property herein referred to from E. W. Wilson to Consolidated Electric Company.

One hundred thousand dollars to be purchased within twelve months after said conveyance.

One hundred thousand dollars face value to be purchased within two years after said conveyance.

One hundred thousand dollars face value to be purchased within three years after said conveyance.

The effect of this contract is to bind the Great Western Power Company to acquire from the present creditors of United Light and Power Company (of California) and of United Light and Power Company (of New Jersey) \$400,000.00 face value of the bonds which Consolidated Electric Company desires to issue to them. If this agreement is carried out, it will, within three years, have reduced the bonds which the plan now under submission contemplates shall be outstanding against Consolidated Electric Company and its subsidiaries in the hands of the general public from \$2,593,000.00 to \$2,193,000.00. It is intended also that \$71,000.00 of the Consolidated Electric Company's bonds shall be issued to Great Western Power Company in exchange for its guarantee, and also for the purpose of making up the discount to reimburse the Great Western Power Company for such discount allowance in the purchase of \$400,000.00 of bonds. As this \$71,000.00 of bonds pass into the hands of Great Western Power

Company, they will serve to reduce the remaining bonds of Consolidated Electric Company outstanding to the amount of \$2,122,000.00. As Great Western Power Company will be the owner of the stock of Consolidated Electric Company, this plan gives a much more favorable aspect to the proposals herein presented.

The mortgage or deed of trust submitted by Consolidated Electric Company contains no provision for a sinking fund. It will be possible, however, that the plan under which the Great Western Power Company proposes to acquire the bonds of Consolidated Electric Company may operate to fulfill in a large part the functions of a sinking fund. A light additional sinking fund and an expression of the guarantee in concrete form would appear to be desirable so that the Commission might give its approval to the general plan under consideration.

Protests have been filed in this matter by persons who urge that they have claims against the United Properties Company and assert that the United Properties Company is interested in the stock of the United Light and Power Company (of New Jersey) and, therefore, in its subsidiaries. These protestants maintain that if the properties are allowed to be transferred, as is herein requested, they will be injured to the extent that assets upon which they now look for relief may be removed beyond their power to recover.

I would be inclined to go into this more deeply were it not for the fact that the evidence before me does not lead me to believe that there is value in the stock of the United Light and Power Company (of California) or of the United Light and Power Company (of New Jersey). On the contrary, the investigations which have been made and the evidence which has been introduced have led me to the conclusion that these companies have an indebtedness beyond the value of their properties and are operating at a loss.

It would avail nothing, as I understand this matter, if this stock were available for the creditors of the United Properties Company, as I do not believe there is value therein. I take this position in regard to these protestants more readily by reason of the fact that they may, of course, have recourse to the proper tribunal to protect whatever rights they have in this matter.

A protest has also been filed in this matter by certain minority stockholders of the Central Oakland Light and Power Company. They protest that the transaction as proposed gives them nothing for their stock, although they allege that they have paid cash therefor. If it appears that the sale of these properties was regularly authorized by the controlling stock interests according to law, and in the absence of an allegation of fraud, it is difficult for me to see upon what basis this Commission could give heed to the request of the minority interests of this stock as against the controlling majority interests.

While it may be that the minority stockholders in the Central Oakland Light and Power Company may not under this plan attain what they believe to be their due, they have not presented sufficient evidence upon which this Commission may act. They have directed the Commission's attention to their situation but have not supported their claims by evidence upon which this Commission can base a finding that their interests are being sacrificed.

In this proceeding Consolidated Electric Company has also petitioned the Commission for authority to execute a contract (marked Exhibit No. 4) for delivery of electric energy to the San Francisco-Oakland Terminal Railways.

The San Francisco-Oakland Terminal Railways is now purchasing power from United Light and Power Company (of California) under a contract, the reasonableness of which is now under consideration by the Commission in Case No. 779. In the present proceeding Consolidated Electric Company asks this Commission to approve a contract to which the San Francisco-Oakland Terminal Railways has not subscribed. It would be idle for this Commission to approve a contract to which both parties have not subscribed and, therefore, I am obliged to recommend the dismissal of that portion of this application.

In this application Consolidated Electric Company also requests authority to issue 100 shares of its capital stock at the par value of \$100.00 per share. This will be the entire issue of capital stock of this company. It is proposed to issue this stock, with the exception of enough shares to qualify directors, to Great Western Power Company. As this is only a nominal amount, intended merely as representative of ownership of the equity, I shall recommend that this portion of the application be granted.

I am mindful of the fact that the nature of the lease, under the terms of which United Light and Power Company (of California) holds possession of and operates the Yerba Buena steam plant of the San Francisco-Oakland Terminal Railways, is subject to serious objection, as is more particularly specified in the findings and order of this Commission in Case No. 779. Any authority herein given as to the transfer of this lease, or contracts involved therein or in connection therewith, must be given, of course, with the reservation that this Commission does not, by such authority, in any degree place its approval upon that lease or the agreements or contracts in connection therewith. The authorization will merely permit the United Light and Power Company (of California) to transfer to Mr. E. W. Wilson, and will permit Mr. E. W. Wilson thence to transfer to Consolidated Electric Company, such leaseholds, contracts or agreements to which United Light and Power Company (of California) may be a party in connection with its operation of the Yerba Buena steam plant.

This Commission will, of course, reserve any authority it may have to pass upon the reasonableness of such matters involved in these leases, agreements or contracts which may come within its jurisdiction.

In accordance with the findings as set forth in the foregoing opinion, I submit the following form of order:

ORDER.

United Light and Power Company (of California), Equitable Light and Power Company, Consumers Light and Power Company, Southside Light and Power Company, Central Oakland Light and Power Company, United Light and Power Company (of New Jersey), Consolidated Electric Company, Great Western Power Company and E. W. Wilson having applied to this Commission for an order authorizing the following:

1. United Light and Power Company (of California), Equitable Light and Power Company, Consumers Light and Power Company, Southside Light and Power Company, Central Oakland Light and Power Company and United Light and Power Company (of New Jersey) to sell, transfer and convey to E. W. Wilson, of the city and county of San Francisco, all their property of every kind whatsoever;

2. E. W. Wilson to transfer and Consolidated Electric Company to purchase from said E. W. Wilson said property;

3. Consolidated Electric Company to execute a mortgage and deed of trust in the form filed herewith to secure the payment of the principal and interest upon its 5 per cent forty-year gold bonds in the aggregate face amount of \$3,000,000.00;

4. Consolidated Electric Company to issue all of its capital stock consisting of 100 shares of the par value of \$100.00 per share to Great Western Power Company, excepting such shares as may be necessary to qualify directors;

5. Consolidated Electric Company to issue its 5 per cent forty-year gold bonds to be secured by said mortgage in the face amount of \$2,593,000.00, and to use said bonds or the proceeds thereof for the following purposes:

- (a) Two million two hundred and seven thousand dollars face value of bonds to be delivered to E. W. Wilson in payment of the purchase price of properties hereinbefore described;

- (b) Two hundred and forty-three thousand dollars face value of bonds to be issued from time to time in exchange for a like amount of bonds of Consumers Light and Power Company and of Central Oakland Light and Power Company;

- (c) Seventy-one thousand dollars face value of bonds to be issued to Great Western Power Company in part consideration for the guarantee by said Great Western Power Company of the principal and interest upon the bonds of Consolidated Electric Company, and the performance of a proposed contract between Consolidated Electric Company and San Francisco-Oakland Terminal Railways;

(d) Seventy-two thousand dollars face value of bonds to be issued for the payment of expenses incident to rehabilitating the aforesaid properties to be purchased from said E. W. Wilson;

6. Great Western Power Company to guarantee the payment of the principal and interest upon the bonds of Consolidated Electric Company, to be issued under the aforesaid mortgage or deed of trust;

7. Great Western Power Company to purchase \$400,000.00 face value of bonds of Consolidated Electric Company from E. W. Wilson as per agreement marked Exhibit No. 6 attached to this application;

8. Consolidated Electric Company to execute a contract marked Exhibit No. 4, for the delivery of electric energy to the San Francisco-Oakland Terminal Railways;

9. Great Western Power Company to guarantee the performance by Consolidated Electric Company of the contract referred to in paragraph 8;

10. Great Western Power Company to purchase the capital stock of Consolidated Electric Company as aforesaid;

11. E. W. Wilson to acquire:

(a) Nine thousand two hundred and forty-eight shares of the par value of \$10.00 each of common stock of Consumers Light and Power Company;

(b) Fifty thousand shares of the par value of \$10.00 each of common stock of Equitable Light and Power Company;

(c) Twenty-five thousand shares of the par value of \$10.00 each of preferred stock of Equitable Light and Power Company;

(d) Seventy thousand two hundred and eight shares of the par value of \$10.00 each of common stock of Central Oakland Light and Power Company;

(e) Eighteen thousand seven hundred and seven shares of the par value of \$10.00 each of preferred stock of Central Oakland Light and Power Company;

(f) Seventy-five thousand shares of the par value of \$10.00 each of common stock of Southside Light and Power Company;

(g) Twenty-five thousand shares of the par value of \$10.00 each of preferred stock of Southside Light and Power Company;

(h) Thirty thousand shares of the par value of \$100.00 each of common stock of United Light and Power Company (of New Jersey);

(i) Three hundred ninety-eight thousand two hundred and thirteen shares of the par value of \$10.00 each of the common stock of United Light and Power Company (of California);

(j) One hundred ninety-nine thousand six hundred and ten shares of the par value of \$10.00 each of preferred stock of United Light and Power Company (of California);

12. E. W. Wilson to sell and Consolidated Electric Company to purchase the stock of the companies mentioned in the last preceding paragraph;

And a public hearing having been held, and it appearing that the public interests will be served by the sale and conveyance of these properties, and by the execution of the contracts and guarantees as

set forth in the foregoing opinion, and that the stocks and bonds which the applicants herein propose to issue are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered that United Light and Power Company (of California), Equitable Light and Power Company, Consumers Light and Power Company, Southside Light and Power Company, Central Oakland Light and Power Company, and United Light and Power Company (of New Jersey) be granted authority, and they are hereby granted authority, to sell, transfer and convey to E. W. Wilson, of the city and county of San Francisco, all of their property of every kind whatsoever.

It is further ordered that E. W. Wilson be granted authority, and he is hereby granted authority, to transfer to Consolidated Electric Company the properties of United Light and Power Company (of California), Equitable Light and Power Company, Central Oakland Light and Power Company and United Light and Power Company (of New Jersey) referred to in the foregoing paragraph.

It is further ordered that Consolidated Electric Company be granted authority, and it is hereby granted authority, to execute a mortgage and deed of trust substantially in the form filed in connection with the application herein and marked Exhibit No. 7, said mortgage and deed of trust being in the form of an indenture between Consolidated Electric Company and Anglo-California Trust Company of San Francisco, trustee, as security for the payment of the principal and interest upon the proposed issue of \$3,000,000.00 of 5 per cent forty-year gold bonds; provided that provision shall be made in said trust indenture for a sinking fund to apply toward the retirement of the bonds to be issued under said trust agreement, said sinking fund to consist annually, beginning in 1920, of a sum sufficient to retire not less than 1 per cent of the bonds outstanding under said trust indenture, said sum to be applied annually to the retirement of the bonds issued under said trust indenture in such amount that the bonds retired annually shall not be less than 1 per cent of the whole amount of the bonds then outstanding.

It is further ordered that Consolidated Electric Company be granted authority, and it is hereby granted authority, to issue to Great Western Power Company 100 shares of its capital stock of the par value of \$100.00 per share, or to issue any part of said 100 shares to such persons as Great Western Power Company may designate to act as directors of Consolidated Electric Company.

It is further ordered that Consolidated Electric Company be granted authority, and it is hereby granted authority, to issue \$2,593,000.00 face value of its 5 per cent forty-year bonds under its mortgage and deed of trust to Anglo-California Trust Company, trustee (a copy of

which has been filed as Exhibit No. 7 in connection with this application), to which reference is hereby made, said bonds to be delivered as follows:

(a) Two million two hundred and seven thousand dollars face value of said bonds to be delivered to E. W. Wilson in payment of the purchase price of the properties to be conveyed by E. W. Wilson to Consolidated Electric Company; on the condition that said \$2,207,000.00 of bonds to be issued to E. W. Wilson shall be used by said Wilson for the purpose of making a settlement with the secured and unsecured creditors of United Light and Power Company (of California) and of United Light and Power Company (of New Jersey) in accordance with the terms of said proposed settlement as filed by the applicants herein and as more specifically set forth in the foregoing opinion;

(b) Two hundred and forty-three thousand dollars face value of said bonds to be issued from time to time in exchange for the purpose of paying \$100,000.00 face value of bonds of Consumers Light and Power Company and \$143,000.00 face value of bonds of Central Oakland Light and Power Company; said \$243,000.00 of bonds to be so issued that for every bond of Consolidated Electric Company issued under this section of the order there shall be paid, discharged or retired a bond of like amount of Consumers Light and Power Company or of Central Oakland Light and Power Company;

(c) Seventy-one thousand dollars face value of bonds to be issued to Great Western Power Company in part consideration for the guarantee by said Great Western Power Company and more specifically to provide an equitable discount at which Great Western Power Company shall repurchase \$400,000.00 of bonds herein authorized to be issued; provided, the \$71,000.00 of bonds herein authorized to be issued to Great Western Power Company shall be held by Great Western Power Company in a special fund which shall constitute a special sinking fund, and the bonds placed therein shall be cancelled, or provided that Great Western Power Company shall place said \$71,000.00 of bonds with the trustee under the mortgage to be executed by Consolidated Electric Company to be held by said trustee as a special sinking fund;

(d) Seventy-two thousand dollars face value of said bonds to be issued for the purpose of raising funds which shall be used in the rehabilitation of the properties to be acquired under this order by Consolidated Electric Company or for additions and betterments to said properties, said bonds to be sold at not less than 80 per cent of their face value plus accrued interest thereon.

It is further ordered that Great Western Power Company be granted authority, and it is hereby granted authority, to guarantee the payment of principal and interest upon the bonds herein authorized to be issued by Consolidated Electric Company and which may hereafter be issued by Consolidated Electric Company under its mortgage and deed of trust to Anglo-California Trust Company, trustee, heretofore referred to as Exhibit No. 7.

It is further ordered that Great Western Power Company be granted authority, and it is hereby granted authority, to purchase \$400,000.00 face value of bonds of Consolidated Electric Company from E. W. Wilson, or his nominees, in accordance with an agreement between said Consolidated Electric Company and said E. W. Wilson, filed with the application herein and marked Exhibit No. 6, on the condition that said \$400,000.00 of bonds when purchased shall be held by Great Western Power Company in a special fund as a sinking fund, and that such bonds when placed in said special sinking fund shall be cancelled, or on the condition that Great Western Power Company shall place said \$400,000.00 of bonds when purchased with the trustee under the mortgage to be executed by Consolidated Electric Company to secure the payment of its bonds, said \$400,000.00 of bonds to be held in a special sinking fund by said trustee.

It is further ordered that the application of Consolidated Electric Company that this Commission approve the proposed contract for the sale of electric energy to San Francisco-Oakland Terminal Railways, filed in connection with the application herein as Exhibit No. 4, be dismissed, for the reason that San Francisco-Oakland Terminal Railways is not a party to the application for the approval of said contract, such dismissal to be without prejudice to the right of Consolidated Electric Company to renew such application when it shall have obtained the signature of San Francisco-Oakland Terminal Railways to such contract.

It is further ordered that the application of Great Western Power Company to guarantee the performance by Consolidated Electric Company of the contract for the sale of electric energy referred to in the foregoing paragraph be dismissed without prejudice to the right of Great Western Power Company to renew such application when Consolidated Electric Company and San Francisco-Oakland Terminal Railways shall have reached an agreement and shall have applied to this Commission jointly for the approval of a contract for the sale of electric energy by Consolidated Electric Company to said San Francisco-Oakland Terminal Railways.

It is further ordered that Great Western Power Company be granted authority and it is hereby granted authority to purchase 100 shares of the capital stock of Consolidated Electric Company of the par value of \$100.00 per share, or such part thereof as it may desire to acquire, provided that Great Western Power Company shall acquire and purchase not less than 95 shares of said stock.

It is further ordered that E. W. Wilson be granted authority and he is hereby granted authority to acquire the following stocks:

(a) Nine thousand two hundred and forty-eight shares of the par value of \$10.00 each of common stock of Consumers Light and Power Company;

(b) Fifty thousand shares of the par value of \$10.00 each of common stock of Equitable Light and Power Company;

(c) Twenty-five thousand shares of the par value of \$10.00 each of preferred stock of Equitable Light and Power Company;

(d) Seventy thousand two hundred and eight shares of the par value of \$10.00 each of common stock of Central Oakland Light and Power Company;

(e) Eighteen thousand seven hundred and seven shares of the par value of \$10.00 each of preferred stock of Central Oakland Light and Power Company;

(f) Seventy-five thousand shares of the par value of \$10.00 each of common stock of Southside Light and Power Company;

(g) Twenty-five thousand shares of the par value of \$10.00 each of preferred stock of Southside Light and Power Company;

(h) Thirty thousand shares of the par value of \$100.00 each of common stock of United Light and Power Company (of New Jersey);

(i) Three hundred and ninety-eight thousand two hundred and thirteen shares of the par value of \$10.00 each of common stock of United Light and Power Company (of California);

(j) One hundred and ninety-nine thousand six hundred and ten shares of the par value of \$10.00 each of preferred stock of United Light and Power Company (of California).

It is further ordered that Consolidated Electric Company be granted authority and it is hereby granted authority to acquire the following stocks:

(a) Nine thousand two hundred and forty-eight shares of the par value of \$10.00 each of common stock of Consumers Light and Power Company;

(b) Fifty thousand shares of the par value of \$10.00 each of common stock of Equitable Light and Power Company;

(c) Twenty-five thousand shares of the par value of \$10.00 each of preferred stock of Equitable Light and Power Company;

(d) Seventy thousand two hundred and eight shares of the par value of \$10.00 each of common stock of Central Oakland Light and Power Company;

(e) Eighteen thousand seven hundred and seven shares of the par value of \$10.00 each of preferred stock of Central Oakland Light and Power Company;

(f) Seventy-five thousand shares of the par value of \$10.00 each of common stock of Southside Light and Power Company;

(g) Twenty-five thousand shares of the par value of \$10.00 each of preferred stock of Southside Light and Power Company;

(h) Thirty thousand shares of the par value of \$100.00 each of common stock of United Light and Power Company (of New Jersey) ;

(i) Three hundred and ninety-eight thousand two hundred and thirteen shares of the par value of \$10.00 each of common stock of the United Light and Power Company (of California) ;

(j) One hundred and ninety-nine thousand six hundred and ten shares of the par value of \$10.00 each of preferred stock of the United Light and Power Company (of California).

The authority herein granted as to all of the specific authorizations herein recited is given upon the following conditions, and not otherwise :

1. A good and sufficient deed shall be given to E. W. Wilson for the properties herein authorized to be transferred to him, and a good and sufficient deed shall be given by Mr. Wilson for all of the properties herein authorized to be transferred by him to Consolidated Electric Company.

2. Great Western Power Company shall carry out in good faith its guarantee of the payment of principal and interest of the bonds herein authorized to be issued and shall also carry out in good faith its contract with E. W. Wilson to purchase \$400,000.00 of the bonds herein authorized to be issued.

3. Great Western Power Company shall execute an indenture with the trustee under the deed of trust securing the bonds to be issued by Consolidated Electric Company, under the terms of which Great Western Power Company shall obligate itself to purchase bonds of Consolidated Electric Company as follows:

One hundred thousand dollars face value to be purchased upon the execution and delivery of the deed conveying the properties heretofore referred to from E. W. Wilson to Consolidated Electric Company ;

One hundred thousand dollars face value to be purchased within twelve months after said conveyance ;

One hundred thousand dollars face value to be purchased within two years after said conveyance ;

One hundred thousand dollars face value to be purchased within three years after said conveyance ;

said bonds, when purchased, to be held by Great Western Power Company in a special fund as a sinking fund, and to be canceled when placed in said sinking fund, or said bonds when purchased to be placed with the trustee, heretofore referred to, under the mortgage and to be held by said trustee as a special sinking fund.

4. The authorizations herein given as to conveyances of property, execution of contracts or issue of stocks and bonds shall not be binding upon this Commission, or any other public authority, as a finding value of the properties herein concerned or any of them, it being the

purpose of this Commission in this matter, as set forth in the foregoing opinion, to grant this application to a large extent upon the guarantee of the Great Western Power Company, with the condition that such guarantee shall not be used to impose rates or charges upon the patrons of said Great Western Power Company which would not be just and reasonable rates, based upon the value of the properties of said Great Western Power Company.

5. The authorizations herein given as to conveyances of property, execution of contracts or issue of stocks and bonds shall not be binding upon this Commission, or other public authority, as a finding of value of the properties herein concerned or any of them, or of the properties authorized to be acquired by Consolidated Electric Company, it being the purpose of this Commission, as specifically set forth in the foregoing opinion, to grant this application upon the condition that the authorization herein should not be advanced as a cause or a reason for a rate or charge in any way different from such rate or charge as would be a just and reasonable rate based upon the actual value of the properties to be acquired by the Consolidated Electric Company.

6. The authorization herein given as to the conveyance of property, execution of contracts or issue of stocks and bonds shall not be binding upon this Commission or any other public authority as an approval of the terms of the lease under which United Light and Power Company (of California) operates the Yerba Buena steam plant of the San Francisco-Oakland Terminal Railways, in Oakland, nor of the agreements or contracts in connection with said lease which may come within the jurisdiction of this Commission, this Commission specifically reserving any authority it may have as to the matters contained in such leases, agreements or contracts for determination hereafter if necessity should arise.

7. The guarantee of the principal and interest of the bonds of Consolidated Electric Company by Great Western Power Company shall be in the form of an indenture between said Great Western Power Company and the trustee under the mortgage securing the bonds to be issued by said Consolidated Electric Company; said indenture to contain in clear language the definite and exact form of guarantee by Great Western Power Company.

8. Consolidated Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of said stock and bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission, in accordance with the Commission's General Order No. 24, stating the sale or disposition of such bonds and stock during the preceding month, the

terms and conditions of such sale or other disposition, the moneys realized therefrom and the use and application of such moneys.

9. The payment of the fee specified in section 57 of the Public Utilities Act shall be a condition precedent to the effectiveness of this order.

10. The authorization herein given as to transfer of property, the execution of contracts and the issue of securities shall apply to such transfer of properties, such contracts and such stocks and bonds as shall have been executed or issued on or before November 1, 1915.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, this 10th day of May, 1915.

DECISION No. 2360.

W. F. SMITH AND WILLIAM DENSMORE
vs.

SOUTH LOS ANGELES WATER COMPANY.

Case No. 794.

Decided May 7, 1915.

Complainants, residents of Aldine Square tract in the city of Vernon petition the Commission to compel defendant water company to extend its mains so as to supply them and other residents of tract named with water, their former supply having failed, and defendant being willing to supply such water, the only question being over the purchase price of the main owned by the former company. Value of main to be acquired fixed at \$1,200.00, and defendant directed to proceed to supply this tract with water.

L. C. Craig, for Complainants.

W. A. Robertson, for Defendant.

S. M. Haskins, for Hercules Oil and Refining Company.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

This action was filed with the Commission by residents of Aldine Square tract, within the boundaries of the city of Vernon. It is alleged that the South Los Angeles Water Company is in a position to serve that tract with water for domestic use and complainants ask that an order of this Commission be issued to compel the South Los Angeles Water Company to extend its mains so as to serve them with water for domestic and other uses.

A hearing was held in this case in Los Angeles on April 30, 1915, at which time the Hercules Oil and Refining Company, through its attorney, appeared as an interested party to the proceeding.

Aldine Square tract lies between Santa Fe avenue and Alameda street adjacent to Thirty-seventh street and Thirty-eighth street in the city of Vernon, comprising about forty acres. The subdivision was put on the market about 1907 by Strong and Dickinson, who piped the tract and supplied water from a well at their lumber yard. After the tract was sold out, the water supply from the lumber company failed and the Hercules Oil and Refining Company was induced to supply the tract with water from a well developed at their refinery. This water was too warm to be potable, as it came from the cooling chambers at the refinery.

During the time that the Hercules company was distributing water the city of Vernon started the paving of Santa Fe avenue and one of the councilmen of Vernon asked the Hercules company to extend a 4-inch main in advance of the paving. This was done at an expense to the Hercules company of \$3,923.76, which expense included branches at the intersected streets and several standpipes along Santa Fe avenue for the use of sprinkling wagons, etc.

About August, 1914, the customers of the Hercules company asked the Hercules company to withdraw their service, as a better source of water was available to them. This was readily done and arrangements were made with the Consolidated Lumber Company to furnish them with water, but, after two months, the Consolidated Lumber Company gave up serving them and since then the residents of Aldine Square tract have managed, as best they could, to supply themselves from independent sources.

It would be possible for the South Los Angeles Water Company to furnish water within a day or two to this tract if they could agree with the Hercules Oil Refining Company upon a selling price for the 4-inch main laid in Santa Fe avenue. The parties to this action stipulated that the Commission should determine what would be a fair price to pay the Hercules Oil Refining Company for the pipe in case the South Los Angeles Water Company decided to use it in extending to Aldine Square tract. The Commission's engineers have reported that they consider \$1,200.00 to be a fair value of the pipe along Santa Fe avenue which would be useful to the South Los Angeles Water Company, and in case the latter company desires to acquire this pipe line, I hereby fix the amount to be paid as \$1,200.00.

The South Los Angeles Water Company, previous to October, 1911, had extended its mains along some of the public streets in the city of Vernon and has been furnishing water to inhabitants of the city of Vernon for some time. It is, therefore, clear that the South Los Angeles Water Company does not require a franchise before extending farther into the city of Vernon. I shall, accordingly, recommend to the Commission that the South Los Angeles Water Company be ordered

to extend its mains so as to serve the inhabitants of the tract known as Aldine Square.

A letter was filed, as Exhibit "2," from Strong and Dickinson, declaring their desire to quitclaim the pipe lines of Aldine Square to any person or persons who would take upon themselves the service of water to that tract. This leaves only the expense to be borne of the main from the nearest terminal of the South Los Angeles Water Company system.

There are about seventy-three parties in and around Aldine Square who would be willing to take water from the South Los Angeles Water Company. Heretofore these parties paid a flat rate of \$1.00 per month. The South Los Angeles Water Company has a rate of \$1.00 per month outside of Huntington Park, for which they allow 800 cubic feet. If we assume that at least sixty new consumers will be added to the South Los Angeles Water Company, the gross income from the extension will be about \$720.00 per year. Should the company desire to meter Aldine Square tract, the expense will be in addition to the extension. However, I consider that the business fully justifies the extension.

The pressure that will be available in Aldine Square will not be equal to that in portions of Huntington Park, but complainants are so anxious to get good water that they should be content with the twenty pounds or so, which it is estimated will be available. At some later time, when business demands it, provision can be made for a high tank for use in the city of Vernon.

I, therefore, recommend the following order:

ORDER.

W. F. Smith and William Densmore, having made complaint to this Commission and asked that the South Los Angeles Water Company be directed to lay its mains in portions of the city of Vernon, and a public hearing having been held and it appearing that the best interests of the residents of Aldine Square tract in the city of Vernon will be served by the granting of the petition, and being fully apprised in the premises, and basing its order on the foregoing opinion,

It is hereby ordered that South Los Angeles Water Company be and the same is hereby directed to extend, with reasonable diligence, its water mains from the terminal of its present pipes to serve the Aldine Square tract with water at the regular rates without additional expense to the residents of Aldine Square tract. The cost of such extension will be a proper capital expenditure and should be considered by the appropriate public authority in establishing the rates to be charged by the South Los Angeles Water Company supplied in the city of Vernon.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of May, 1915.

DECISION No. 2361.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CERTAIN PROMISSORY NOTES.

Application No. 1640.

Decided May 7, 1915.

Applicant authorized to issue two promissory notes bearing interest at not to exceed 6 per cent of the aggregate face value of \$15,024.77 in renewal of notes of an equal face value.

A. E. Peat, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Southern California Gas Company, having made application to this Commission for authority to issue two promissory notes to The Sprague Meter Company and American Meter Company for the purpose of refunding the following promissory notes now outstanding:

| Payee | Date | Amount | Interest rate | Maturity |
|--------------------------------|---------------|-------------|---------------|--------------|
| The Sprague Meter Company..... | Feb. 20, 1915 | \$11,240 67 | 6% | May 20, 1915 |
| American Meter Company..... | Mar. 5, 1915 | 3,784 10 | 5% | June 5, 1915 |

And a hearing having been held, and it appearing that the purposes for which the applicant proposes to issue said promissory notes are proper purposes as defined by the Public Utilities Act, and are not reasonably chargeable to operating expenses and income,

It is hereby ordered that Southern California Gas Company be and it hereby is granted authority to issue a promissory note to The Sprague Meter Company in the sum of \$11,240.67 for a term not exceeding one year from May 20, 1915; said note to bear interest at not to exceed 6 per cent per annum.

It is further ordered that Southern California Gas Company be and it hereby is granted authority to issue a promissory note to American Meter Company in the sum of \$3,784.10, for a term not exceeding one year from June 5, 1915; said note to bear interest at not to exceed 5 per cent per annum.

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The notes herein authorized to be issued shall be used for the sole purpose of refunding similar notes now outstanding, as hereinbefore set forth;

2. The authority herein granted shall apply to such notes as shall have been issued on or before November 1, 1915;

3. The applicant herein shall report to this Commission within thirty days after the notes herein authorized to be issued have been issued, stating that such notes have been issued and stating the note, or notes, cancelled or refunded;

4. The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of May, 1915.

DECISION No. 2362.

THE CRESCENT CITY LIGHT, WATER AND POWER COMPANY
vs.
GEORGE M. KELLER AND HOBBS, WALL AND COMPANY.

Case No. 607.

Decided May 7, 1915.

Complainant alleges that defendant Hobbs, Wall and Company is distributing electric energy to certain consumers in the city of Crescent City and that though a franchise has been granted to defendant George M. Keller, it has never been transferred to the Hobbs, Wall Company, and, further, as such company's articles of incorporation do not provide that it shall engage in the electrical generating and distributing business, this Commission should prohibit it from such further practice.

Held, That as the consent of this Commission is not necessary for the continued operation of a utility in the field in which it was already serving prior to the effective date of the Public Utilities Act, this Commission has no power to direct a utility to discontinue such service. Complaint dismissed.

Henry J. Rogers and T. B. Cutler, for Complainant.

C. G. Dall, of Titus, Creed & Dall, for Defendants.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

In this case Creseent City Light, Water and Power Company asks this Commission to direct Hobbs, Wall and Company and George M. Keller, superintendent of Hobbs, Wall and Company, to discontinue furnishing electric energy for light or power to the residents of Crescent City, Del Norte County, California. There is no dispute as to the facts presented in this case, which, briefly, are these:

Hobbs, Wall and Company was incorporated under the laws of California in 1896, and has since been engaged principally in the milling and lumber business with headquarters at Crescent City. This company generates electric energy to operate its lumber mill. Having more energy than the company, itself, could use, the company began, in 1905, to supply electric energy for light and power to residents of Crescent City. To this end the city authorities, on September 12, 1904, granted to George M. Keller or assigns a franchise to operate an electric light distribution system within Crescent City. George M. Keller is the superintendent of Hobbs, Wall and Company. This franchise has never been assigned to the company, nor has George M. Keller personally ever operated an electric light distribution system under this franchise.

Crescent City Light, Water and Power Company was incorporated in 1902, under the laws of California, and the following year began to distribute electric energy in Crescent City for light and power purposes.

Crescent City Light, Water and Power Company is here asking the Commission to direct Hobbs, Wall and Company and George M. Keller to discontinue supplying electric energy in Crescent City. Complainant, in support of its contention, argues (1) that Hobbs, Wall and Company is not empowered under its articles of incorporation to engage in the business of supplying electric energy for light and power, and (2) Hobbs, Wall and Company has no franchise to engage in such a business within Crescent City. In answer to this argument Hobbs, Wall and Company claims that its articles of incorporation do empower it to engage in the business of supplying electric energy for light or power; further, that under section 19 of article XI of the Constitution of this State it was not necessary to obtain a franchise from the municipal authorities to begin the supply of electric energy for light or power at the time when Hobbs, Wall and Company first engaged in this business, and also, that if a franchise was necessary the franchise granted to George M. Keller is sufficient. The defendants contend that this Commission has no jurisdiction under the facts of this case to grant the relief prayed for.

It is my opinion that the contention of defendants that this Commission has no jurisdiction to grant the relief prayed for under the facts of this case, is correct. When the Public Utilities Act became effective on March 23, 1912, there were two electric distribution plants in operation supplying electric energy to the inhabitants of Crescent City. There is nothing in the Public Utilities Act which requires the consent of this Commission to the continued operation of a public utility in a field in which it was in operation when the Public Utilities Act became

effective. The claim that one of these utilities is an *ultra vires* utility, or is operating without a necessary franchise, can not alter the position of this Commission. This Commission is not the proper tribunal to adjudicate these questions. Complainants should have these matters adjudicated by *quo warranto* or other appropriate proceedings in the proper tribunals vested with jurisdiction to determine these matters. Under the facts of this case, therefore, I am of the opinion that the Commission does not have jurisdiction to grant the relief prayed for, and therefore recommend that the complaint herein be dismissed.

I submit herewith the following form of order:

ORDER.

This case having come on regularly for hearing and the Commission being of the opinion that it does not have jurisdiction to grant the relief prayed for in the complaint,

It is hereby ordered that the complaint herein be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of May, 1915.

DECISION No. 2363.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF CERTAIN PROMISSORY NOTES.

Application No. 1637.

Decided May 7, 1915.

San Joaquin Light and Power Company authorized to issue promissory notes of an aggregate face value of \$317,260.00 for the purposes of renewing notes now due, of an equal face value.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

In this proceeding San Joaquin Light and Power Corporation asks for authority to renew for a period not exceeding one year the following notes:

| Payee | Date | Amount | Interest rate | Maturity |
|--|---------------|------------|---------------|---------------|
| Western Electric Company..... | Mar. 15, 1915 | \$5,400 00 | 6% | June 15, 1915 |
| Bank of Central California..... | Mar. 26, 1915 | 10,000 00 | 7% | June 26, 1915 |
| Westinghouse Electric and Manufac- turing Company | Apr. 7, 1915 | 12,000 00 | 6% | July 6, 1915 |
| Wells Fargo Nevada National Bank. Feb. 23, 1915 | | 75,000 00 | 6% | May 24, 1915 |
| Wells Fargo Nevada National Bank. Feb. 23, 1915 | | 75,000 00 | 6% | May 24, 1915 |
| Giant Powder Company..... | Mar. 5, 1915 | 5,000 00 | 6% | June 5, 1915 |
| First National Bank of Taft..... | Mar. 5, 1915 | 3,000 00 | 6% | June 3, 1915 |
| Union Trust Co. of San Francisco... Mar. 5, 1915 | | 50,000 00 | 6% | June 3, 1915 |
| National Conduit and Cable Co..... Apr. 20, 1915 | | 30,000 00 | 7% | July 20, 1915 |
| Crane Company | Jan. 23, 1915 | 1,500 00 | 6% | Apr. 23, 1915 |
| John A. Roebling's Sons Company..... Apr. 24, 1915 | | 10,000 00 | 7% | July 24, 1915 |
| Western Electric Company..... | Apr. 15, 1915 | 5,000 00 | 6% | July 15, 1915 |
| The J. G. White Engineering Corp.... Feb. 11, 1915 | | 10,000 00 | 6% | May 14, 1915 |
| The J. G. White Engineering Corp.... Feb. 11, 1915 | | 10,000 00 | 6% | May 14, 1915 |
| Farmers National Bank of Fresno.... Nov. 23, 1912 | | 5,760 00 | 6% | May 15, 1915 |
| Farmers National Bank of Fresno.... Jan 13, 1913 | | 10,000 00 | 6% | May 15, 1915 |

It appears that all of the foregoing notes except those in favor of Western Electric Company, Westinghouse Electric and Manufacturing Company, Giant Powder Company, Crane Company, John A. Roebling's Sons Company, the J. G. White Engineering Corporation, Farmers National Bank of Fresno, have heretofore been authorized either by Decision No. 1319, dated March 2, 1914, or by Decision No. 1660, dated July 9, 1914.

Inasmuch as the testimony and evidence is to the effect that the proceeds obtained from the notes have been used for purposes properly capitalizable, I recommend that this application be granted and herewith submit the following form of order:

ORDER.

San Joaquin Light and Power Corporation, having applied to this Commission for an order authorizing it to renew for a period not exceeding one year certain promissory notes, and a public hearing having been held and the Railroad Commission of the State of California finding that the purposes for which the proceeds of said notes were used were not properly or reasonably chargeable to operating expenses or to income,

It is hereby ordered that San Joaquin Light and Power Corporation be and it is hereby authorized to issue its promissory notes in the amounts and at the rate of interest and to the payees hereinbefore set forth on the following conditions and not otherwise, to wit:

(1) San Joaquin Light and Power Corporation shall issue said notes at their full face value and at the rate of interest hereinbefore set forth.

(2) San Joaquin Light and Power Corporation shall use the proceeds of said notes only for the purposes of refunding its promissory notes of the dates and to the payees hereinbefore set forth.

(3) San Joaquin Light and Power Corporation may issue said notes and such renewals therefor as it may deem advisable without further order of this Commission, provided that the aggregate of the terms of said notes shall not exceed one year from the date of this order.

(4) San Joaquin Light and Power Corporation shall report to the Railroad Commission within ten days after date of the renewal of the notes or any of them, the fact of such renewals, the terms and disposition of the proceeds of the note or notes renewed under this authorization.

This order shall not become effective until after applicant has paid the fee prescribed in section 57 as amended, in the Public Utilities Act.

The foregoing opinion and order of the Commission is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of May, 1915.

DECISION No. 2364.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES
PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING
THE ISSUE OF CERTAIN NOTES.

Application No. 1638.

Decided May 7, 1915.

Midland Counties Public Service Corporation authorized to renew ten promissory notes of an aggregate face value of \$136,844.43 for a period of not to exceed one year from date of renewal.

A. E. Peat, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

In this application Midland Counties Public Service Corporation asks for an order authorizing it to renew for a period not exceeding one year the following notes:

| Payee | Date | Amount | Interest rate | Maturity |
|--|---------------|-------------|---------------|---------------|
| John A. Roebling's Sons Company.... | Mar. 18, 1915 | \$12,679 99 | 7% | June 18, 1915 |
| National Conduit and Cable Co..... | Mar. 23, 1915 | 30,000 00 | 7% | June 23, 1915 |
| First National Bank of Coalinga..... | Mar. 25, 1915 | 6,500 00 | 6% | June 25, 1915 |
| Western Electric Company..... | Mar. 25, 1915 | 2,362 13 | 6% | June 25, 1915 |
| Westinghouse Electric and Manufac- turing Company | Feb. 19, 1915 | 9,017 73 | 6% | May 19, 1915 |
| John A. Roebling's Sons Company.... | Feb. 24, 1915 | 10,177 12 | 6% | May 24, 1915 |
| United States Aluminum Company.. | Mar. 7, 1915 | 57,500 00 | 7% | June 7, 1915 |
| Pacific Hardware and Steel Co..... | Apr. 14, 1915 | 1,500 00 | 7% | July 14, 1915 |
| Western Electric Company..... | Apr. 15, 1915 | 2,931 57 | 6% | July 15, 1915 |
| Western Electric Company..... | Apr. 16, 1915 | 3,875 59 | 6% | July 16, 1915 |
| Price-Waterhouse Company | Jan. 21, 1915 | 800 00 | 6% | Apr. 21, 1915 |

Since filing the application, the amount due Price-Waterhouse Company has been paid.

Testimony is to the effect that the proceeds obtained from the issuance of the notes were used for capital purposes. This being the case, I recommend that this application be granted and herewith submit the following form of order:

ORDER.

Application having been made by Midland Counties Public Service Corporation for an order authorizing the issuance of promissory notes aggregating \$136,744.43, and a public hearing having been held and it appearing to the Commission that the proceeds from the issuance of the promissory notes herein asked to be authorized are not reasonably chargeable in whole or in part to operating expenses or to income, and that it is reasonably necessary that applicant renew the notes hereinbefore mentioned,

It is hereby ordered that Midland Counties Public Service Corporation be given and is hereby given authority to issue promissory notes in the following amounts at the following named rate of interest and to the following persons:

| Payee | Date | Amount | Interest rate | Maturity |
|---|---------------|-------------|---------------|---------------|
| John A. Roebling's Sons Company... | Mar. 18, 1915 | \$12,679 99 | 7% | June 18, 1915 |
| National Conduit and Cable Co..... | Mar. 23, 1915 | 30,000 00 | 7% | June 23, 1915 |
| First National Bank of Coalinga..... | Mar. 25, 1915 | 6,500 00 | 6% | June 25, 1915 |
| Western Electric Company..... | Mar. 25, 1915 | 2,362 43 | 6% | June 25, 1915 |
| Westinghouse Electric and Manufacturing Company | Feb. 19, 1915 | 9,017 73 | 6% | May 19, 1915 |
| John A. Roebling's Sons Company... | Feb. 24, 1915 | 10,477 12 | 6% | May 24, 1915 |
| United States Aluminum Company.. | Mar. 7, 1915 | 57,500 00 | 7% | June 7, 1915 |
| Pacific Hardware and Steel Co..... | Apr. 14, 1915 | 1,500 00 | 7% | July 14, 1915 |
| Western Electric Company..... | Apr. 15, 1915 | 2,931 57 | 6% | July 15, 1915 |
| Western Electric Company..... | Apr. 16, 1915 | 3,875 59 | 6% | July 16, 1915 |

It is hereby further ordered that the notes herein authorized to be issued shall be used only for the purposes of renewing or retiring corresponding notes now outstanding payable to the above named persons.

It is hereby further ordered that the notes herein authorized shall be made payable at not exceeding one year from the date of the maturity of the notes to be renewed thereby.

It is hereby further ordered that Midland Counties Public Service Corporation shall report to the Railroad Commission within ten days after the renewal of the foregoing notes, or any of them, the fact of such renewal, terms and disposition of the proceeds of the note or notes renewed under this authorization.

This order shall not become effective until Midland Counties Public Service Corporation has paid the fee specified in section 57 of the Public Utilities Act.

The foregoing opinion and order of the Commission are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7th day of May, 1915.

Decisions Nos. 2365 and 2366, grade crossings; not printed. See end of volume.

DECISION No. 2367.

SAN MATEO COUNTY DEVELOPMENT ASSOCIATION

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 574.

CITY OF PALO ALTO AND PALO ALTO CHAMBER OF COMMERCE

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 595.

Decided May 10, 1915.

Complainants herein attack all of defendant's one-way, round trip and commutation rates between all points, San Jose inclusive, to San Francisco and interstation points within this district, basing their allegations principally upon comparisons with rates on the east side of the bay, particularly between Oakland and Niles, and Oakland and Port Costa and intermediate points, submitting comparative tables showing lower rates effective between points along these lines as against points at an equal distance on peninsula line.

Complainants' comparative tables given little consideration in view of the particular conditions under which suburban commutation rates are constructed, the long and short haul provisions of the constitution compelling certain adjustments which would likewise permit of a table being compiled showing discrimination favoring peninsula points as against Alameda County points, also the rates maintained by defendant to meet competition of Santa Fe Railway's shorter line can not be fairly used for comparative purposes with rates not established under like conditions.

Statistics of passenger traffic along the peninsula line show that train mile earnings are the average for the whole State while the greater traffic provides a per mile passenger revenue of 30 per cent less than the state average.

Held, That no discrimination exists against complainants, and as they have failed to substantiate their contention that the rates were unjust or exorbitant, complaint dismissed.

Seth Mann, for San Mateo County Development Association.

C. W. Durbrow, for Southern Pacific Company.

N. E. Malcolm and *S. W. Charles*, for City of Palo Alto and Town of Mayfield.

S. W. Charles, for Chamber of Commerce of Palo Alto.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

These cases were heard at the same time and by stipulation all of the evidence relevant in one case was made applicable to the other and they may therefore be consolidated and decided at one time.

In its complaint the San Mateo County Development Association attacks as excessive, unreasonable and discriminatory all the one way, round trip and commutation rates of the defendant, Southern Pacific Company, applying between points in San Mateo County and all points on the lines of the defendant between San Francisco and Santa Clara County points.

The complaint of the Palo Alto Chamber of Commerce attacked as excessive, unreasonable and discriminatory single fares, round trip fares and commutation rates between the city of Palo Alto and the city of San Francisco, between the city of Palo Alto and the city of San Jose, and also from Palo Alto to points and stations between San Jose and San Francisco.

Broadly speaking, therefore, we have before us in these proceedings all of the one way, round trip and commutation rates between all points San Francisco and south thereof to and including San Jose.

So far as the complaint of the San Mateo County Development Association is concerned it may be said that the principal attack is against the so-called interstation rates, *i. e.*, one way, round trip and commutation rates between the various points in San Mateo County, and not directed against the rates from San Francisco to San Mateo County points except in isolated cases where an alignment is deemed necessary.

The complaint, however, of the city of Palo Alto specifically attacks the rates from San Francisco to Palo Alto. Practically the same issues were before this Commission in Cases Nos. 264, 266 and 270, but before the cases came to trial a compromise was agreed upon and certain substantial reductions were made in rates which, at the time, apparently satisfied these complainants.

Attached, marked Exhibits A and B, are statements of the rates published by the Southern Pacific Company as a result of the compromise agreement reached after the filing of complaints in Cases Nos. 264, 266 and 270, as compared with the rates in effect prior to that time, and which shows the reductions granted at that time by the defendant in these proceedings.

I will consider this case, the exhibits presented and the testimony given in the order same were introduced at the hearing.

Witness for complainant, San Mateo County Development Association, testified and presented an exhibit in substantiation of his testimony to the effect that since the effective date of the compromise rates

above referred to the population of San Mateo County had increased from approximately 28,000 in 1912 to 35,000 in 1914, an increase of approximately 25 per cent. This increase in population, the witness testified, was attributable to the reduction in commutation rates, and as this reduction in commutation rates was applicable only from San Francisco it necessarily follows that these rates induced people working in San Francisco to establish residences along the Peninsula.

The witness further testified (page 20 of transcript) that people had frequently stated that the reason they did not move down the peninsula was because of the lower transportation rates across the bay to Alameda County points and their desire not to tie their families up in the various towns in San Mateo County where they could not get to San Francisco. This statement is hardly tenable when we consider that the complainant, San Mateo County Development Association, does not attack the rates from San Francisco except indirectly, and I refer to pages 38 and 39 of transcript, particularly page 39, wherein it is stated: "We are all still fairly well satisfied with the commutation rates down the peninsula (meaning from San Francisco), although there are some we want to change slightly, but it is the straight rates and the commutation rates between stations that we are primarily and principally bringing before the Commission in this case, and those matters were not covered or agreed to in the stipulation, nor were they covered or affected by this decision."

I do not see how any reduction in interstation fares would in any way induce more travel to and from San Francisco.

Notwithstanding the fact that complainant only incidentally attacked the rates from San Francisco, a number of exhibits were introduced and much testimony given to prove that such rates are, as a matter of fact, discriminatory when compared with certain rates between San Francisco and Alameda and Contra Costa counties points.

Much stress was laid on the rates from San Francisco via Oakland to Newark and Niles and the non-baggage rates between San Francisco and points on the Port Costa line as far east as Rodeo. The testimony of the defendant in connection with the rates to Newark and Niles was that the lower rate to these points was based on three cents per mile beyond Fruitvale or Alameda, added to fare of fifteen cents of the suburban system between San Francisco and these points. Similar conditions as exist between San Francisco, Alameda and Fruitvale do not exist for a similar distance down the peninsula line, but the rates on the peninsula line are based on three cents per mile from San Francisco for the entire distance. Where one of the factors of a combination making up a through rate is lower than the normal basis, the through rate thus obtained is not a fair measure of comparison for making rates

into other territories where the same conditions which brought about the establishment of the low factor in the combination rate do not exist.

The non-baggage rates from San Francisco to points east on the Port Costa line as far as Rodeo were established on authority of this Commission following an application of the defendant, Southern Pacific Company, to raise the passenger fares to those points.

The fares as far as Rodeo were originally reduced to a lower basis than three cents per mile by the Southern Pacific Company to meet the short line competition of the Atchison, Topeka and Santa Fe Railway at a time when there was no statutory provision or constitutional inhibition against collecting rates higher than a full combination of locals. The constitution was subsequently amended and provided that carriers could not exceed the combination of locals, hence, should the Southern Pacific Company still desire to meet the short line competition of the Santa Fe under its then existing form of ticket, it would be compelled to reduce its rates to all points beyond Rodeo as far south as El Paso, east as far as Ogden, and north as far as Portland approximately fifteen cents. The Southern Pacific Company took the position that rather than reduce all of the rates between San Francisco and points beyond Rodeo fifteen cents, affecting a large amount of travel, it would rather forego participation in the comparatively small amount of business to and from the points where these competitive rates were in effect.

It was at the Commission's suggestion, that because of the superior train service of the Southern Pacific Company serving this territory, that rather than increase the rates to Richmond, San Pablo, Pinole, Rodeo and other points, another form of transportation be sold, and, consequently, the non-baggage checking rates were established on the same basis as the rates put in to meet the short line competition of the Santa Fe. Under these circumstances it would be manifestly unfair, at this time, to compare these rates with the rates of the defendant applying between San Francisco and points on the peninsula.

The complainant contended with considerable earnestness that the same basis of rates should apply between interstation points as applied between San Francisco and these same points.

The rates between San Francisco and points beyond Fruitvale and Alameda towards Newark and Niles, as before stated, have been based on a combination of locals over Alameda and Fruitvale. The complainant contends that rates for similar distances between San Francisco and points on the peninsula should be put in effect, but we do not find that it asks for the same basis of rates between interstation points on the Peninsula line. For example, the rate from San Francisco to Mt. Eden is fifty cents, based, as we have previously pointed out, on a combination over Fruitvale or Alameda. The complainant asks for a similar

rate of fifty cents to Belmont, approximately the same distance on the Peninsula line. At the same time the complainant proposes a rate from South San Francisco to Mayfield of seventy cents for approximately the same distance as from San Francisco to Belmont which rate, it contends, should not exceed fifty cents. Likewise, rate between San Francisco and Mulford on the Alameda County side of the bay, for a distance of 15.5 miles is thirty cents, which rate, the complainant contends, should apply from San Francisco to Easton on the Peninsula line, a distance of 15.1 miles, the present charge being fifty cents, and at the same time is apparently satisfied to accept and suggests a rate of fifty cents between Burlingame and Mayfield for approximately the same distance as between San Francisco and Mulford or San Francisco and Easton.

The one-way fares to Niles and Newark having been constructed on a combination of locals, one factor of which was depressed below a normal basis of the rates, and the non-baggage rates as far east as Rodeo on the Port Costa line having originally been published to meet the short line competition of the Santa Fe, the rates from San Francisco down the Peninsula should not be adjudged unreasonable because they are on a higher basis, and, inasmuch as the complainant in its suggested scheme of one-way fares between interstation points does not apparently expect the same basis of rates as apply from San Francisco, the question of one-way fares to and from San Francisco may be dropped from consideration as far as any comparative basis is concerned.

While it is claimed that the one-way rates from San Francisco to Peninsula points are discriminatory compared with the non-baggage rates on the Port Costa line and the rates to Niles and Newark no showing was made that the interstation rates which apply on the Niles, Newark or Port Costa lines are on any lower basis than the rates between interstation points on the Peninsula; in fact, the one-way rates on all of these lines for interstation movements are on exactly the same basis, namely, three cents per mile, as the following table will show:

Coast Division.

| Miles | Between | And - | One way | Rate per mile |
|-------|-----------------|-----------------|---------|---------------|
| 19.2 | San Bruno ----- | Palo Alto ----- | \$0 60 | 3 cents |
| 16.8 | Palo Alto ----- | San Jose ----- | 50 | 3 cents |
| 9.9 | San Mateo ----- | Atherton ----- | 30 | 3 cents |
| 29.0 | San Mateo ----- | San Jose ----- | 90 | 3 cents |
| 8.2 | Palo Alto ----- | Belmont ----- | 25 | 3 cents |
| 35.9 | San Bruno ----- | San Jose ----- | 1 10 | 3 cents |

Newark Line.

| | | | | |
|------|-----------------|----------------|--------|---------|
| 12.0 | Fruitvale ----- | Mt. Eden ----- | \$0 35 | 3 cents |
| 13.3 | Fitchburg ----- | Alvarado ----- | 40 | 3 cents |
| 11.9 | Elmhurst ----- | Alvarado ----- | 35 | 3 cents |
| 17.2 | Elmhurst ----- | Newark ----- | 55 | 3 cents |
| 9.0 | Mt. Eden ----- | Newark ----- | 30 | 3 cents |
| 6.8 | Mt. Eden ----- | Arden ----- | 20 | 3 cents |

Niles Line.

| | | | | |
|------|---------------|----------------|--------|---------|
| 6.4 | Hayward ----- | Decoto ----- | \$0 20 | 3 cents |
| 9.1 | Hayward ----- | Niles ----- | 30 | 3 cents |
| 7.6 | Harder ----- | Niles ----- | 25 | 3 cents |
| 20.1 | Decoto ----- | San Jose ----- | 65 | 3 cents |
| 17.1 | Niles ----- | San Jose ----- | 55 | 3 cents |

Port Costa Line.

| | | | | |
|------|---------------------|------------------|--------|---------|
| 4.8 | Corbin ----- | Richmond ----- | \$0 15 | 3 cents |
| 8.0 | Richmond ----- | Pinole ----- | 25 | 3 cents |
| 12.4 | San Pablo ----- | Crockett ----- | 40 | 3 cents |
| 8.1 | Pinole ----- | Port Costa ----- | 25 | 3 cents |
| 16.1 | Richmond ----- | Port Costa ----- | 50 | 3 cents |
| 16.1 | West Berkeley ----- | Rodeo ----- | 50 | 3 cents |

According to pleadings of complainants the principal attack is against the interstation rates, and so far as the one-way rates are concerned between interstation points it is plain that no discrimination exists. And, again, I refer to Exhibit No. 4, section 3, of the complaint, wherein a proposed schedule of one-way fares such as would be satisfactory to complainants is set forth. The proposed changes apply only from San Francisco and Bay Shore and on this point I refer to testimony of witness for complainants, page 65 of transcript, commencing on line 11:

"A. Now it happens that the proposed fares, the black figures, are the same in every instance as they are today, except where the red figures are shown. In columns 1 and 2, that is, as from San Francisco to Palo Alto. In other words the red figures shown in this column are the present fares and the black figures are the proposed fares.

Q. And you don't propose any changes except where the red figures appear?

A. That is exactly right.

Q. The red figures, however, represent the present fares?

A. So the adjustment as I said, would require very few changes if we got those rates. And the same thing would exist to San Jose that there would not be but several changes the other side of that, say five or six."

I think this very properly disposes of any controversy concerning the one-way interstation fares.

In passing, it might be well to say, that the Commission can not consider the non-baggage rates to Port Costa which were forced by the short line competition of the Santa Fe, or the fares to Newark and Niles based on low suburban fares to Fruitvale and Alameda as forming any basis of comparison properly applicable in this case. And, likewise, we may as well set at rest any contention that the main line rates for steam service are in any way comparable to rates of the electric suburban system. As to the reasonableness *per se* of these rates I will discuss this feature further on in this opinion.

Before leaving this subject it might be well to discuss further the contention of complainant that it is entitled to the same basis of rates between interstation points on the Peninsula as apply between San Francisco and points on the Peninsula.

Counsel for complainant frequently referred to the decision of the Commission in the transbay ferry case in which it was held that suburban traffic was essentially wholesale and that the suburban business should be considered a by-product. I see no reason for changing the views expressed by the Commission in that decision with reference to suburban traffic being essentially wholesale, but because we are to treat the traffic between San Francisco and points on the Peninsula as wholesale traffic it does not necessarily follow that the business from San Mateo to Redwood City or from South San Francisco to Burlingame which might be carried on same trains is likewise suburban and wholesale traffic. If that were so, then every passenger on the train riding on a one-way ticket would be discriminated against in favor of the man riding on a round trip ticket, and, likewise, the man riding on a round trip ticket would be discriminated against in favor of the man riding on a commutation ticket. Again, it will be noted that in our decision in the transbay ferry case we were dealing with the segregation of property used jointly by the main line passengers and the suburban passengers and also the value of the ferry steamers and the cost of operation and the proper amount of the investment and operating expenses to be charged to the various classes of service.

It was the apportionment of values of property used jointly in the two services that we were dealing with in that passage of our opinion in the transbay case so frequently referred to by counsel for complainant, and, while we adhere to the principles there laid down that suburban traffic is essentially wholesale, that seems to be as far as our statement is applicable in these proceedings, for the reason that we are not here attempting to apportion the value of the property of the Southern Pacific Company between San Francisco and San Jose as between freight, main line and suburban traffic.

We will now consider the interstation commutation rates. As I have before stated, because there is a large volume of commutation traffic

from San Francisco to Peninsula points which may be properly considered as wholesale traffic, it does not follow that the comparatively small amount of commutation traffic between interstation points should likewise be considered wholesale traffic and entitled to the same rates.

The defendant voluntarily maintains a system of interstation commutation rates on the Alameda side of the bay on a lower basis than the interstation rates on the Peninsula without any apparent justification therefor. It is not contended that the density of traffic is not greater on the Peninsula than on the Alameda side of the bay beyond Fruitvale and the only explanation of the defendant was that if the rates were lower on the Alameda side of the bay than on the Peninsula side they were too low and should be increased. Such explanations are worthless as evidence and are usually made by defendant carriers when discrimination is alleged and no competent reasons can be shown as justifying a lower basis of rates in one section than in another. The mere statement by a railroad official that this or that rate is too low and should be raised can not, without a more substantial showing, overcome a charge that persons paying higher rates for substantially the same service are subjected to discrimination.

Certain comparisons were introduced by complainant showing that the interstation commutation rates between Alameda County points are on a lower basis than for similar distances between interstation points on the Peninsula line. In this exhibit certain comparisons are made between Oakland and points on the Newark line as well as between many interstation points. This exhibit is misleading and confusing, to say the least. In a few instances the exhibit shows that the commutation rates on the Alameda side of the bay between interstation points beyond Fruitvale are higher than between interstation points on the Peninsula line for approximately the same distances. This exhibit can not be accepted as having any weight except that we consider the entire tariff, and tariffs will show that an exhibit could be prepared in which all of the interstation commutation rates on the Peninsula line are actually lower than between interstation points on the Newark line. The apparent inconsistencies can be explained very readily.

It has been the general practice of the defendant to make individual commutation rates from San Francisco to points on the Peninsula on the basis of one-half cent per mile and interstation commutation rates on the Peninsula on the basis of one cent per mile. Take, for example, the commutation rate from San Francisco to Palo Alto of \$9.05 which is based on one-half cent per mile; the commutation rate between South San Francisco and Palo Alto if based on one cent per mile the normal interstation basis would be \$12.50. The operation of the long and short haul clause of the Constitution does not permit the carrier to charge more for a long than for a short haul, the latter being contained within the former; consequently, the commutation rate from South San

Francisco is held down to \$9.05, or the San Francisco rate. This condition would obtain until the distance grew so short that it would be cheaper to figure the interstation commutation rates at one cent per mile than use the San Francisco commutation rate at one half cent per mile.

The same condition obtains in the making of commutation rates from Oakland to points on the Newark line; for instance, the commutation rate from Oakland to Russell is \$4.00 and is based on one half cent per mile. The distance from Fitchburg to Russell is 8.1 miles, and on the normal interstation basis of one cent per mile for individual monthly commutation tickets the rate would be \$4.85. Here, as in the case of the rate from South San Francisco to Palo Alto, the operation of the long and short haul clause of the Constitution compels the carrier to observe the Oakland rate as maxima. This same condition is reflected all through the complainant's exhibit bearing on commutation rates which are alleged to be unjustly discriminatory in favor of Alameda County interstation points.

We could, with equal propriety, prepare an exhibit that would show all interstation commutation rates on the Peninsula to be lower than commutation rates on the Alameda side of the bay, for equal distances, and this will continue as long as the interstation commutation rate basis remains at one cent per mile and the San Francisco to Peninsula commutation rates are based on one half cent per mile with the present constitutional limitations.

The city of Oakland with a population of over 200,000 people may properly have commutation rates between that city and points on the Newark line on the same basis as the rates from San Francisco to points on the peninsula line. In other words, from a large city to the outlying districts commutation rates are justified by the wholesale character of the traffic, and I see no reason for differentiating in this respect between the cities of Oakland and San Francisco.

By adopting certain selected comparisons in making up the exhibit to show that the peninsula interstation commutation rates are discriminatory, the complainant has, on the face of things, made out a case of discrimination against the peninsula towns, but a careful analysis of the tariff, as before stated, indicates that in many cases the peninsula stations have lower interstation commutation rates than do the towns located along the Newark line, practically all of which may be attributed to a lower basis from the large cities and the operation of the long and short haul clause of the constitution.

The only way this situation can be cleared up will be to place all of the individual monthly commutation rates on the same basis. Of course, the complainants would not be willing to have the rates from San Francisco raised to the basis of one cent per mile, and the only thing the Commission could do would be to reduce the interstation commutation

rates to one half cent per mile. There is absolutely no evidence before us nor from our investigations are we justified in concluding that the interstation commutation rates should be reduced to one half cent per mile, with the finding that such a rate is a reasonable rate *per se*.

The only comparisons complainant in this case is justified in using are the interstation commutation rates between points located outside of the suburban zone in Alameda County where the long and short haul provision of the constitution does not act as a barrier to compel the defendant to charge no more than the commutation rates from Oakland. Aside from such rates the complainant does not show that the Alameda side of the bay receives any lower interstation commutation rates than the peninsula and the exhibit is decidedly misleading; for instance, the complainant asks the same rate between Easton and Belmont, a distance of 6.8 miles, as applies between Mulford and Mt. Eden, a distance of 6.1 miles, and likewise, the same rate between Easton and San Carlos, a distance of 8.1 miles, as applies between Mulford and Arffs, a distance of 7.5 miles. When rates are based on a given rate per mile the comparisons, to be worth anything, should be for the identical distances, and when the rates are figured out one cent per mile based on the actual distances, it will be apparent that no discrimination exists.

From an examination of the records of the defendant we do not find a single commutation ticket having been sold between places that may be properly regarded as interstation points, during the months of June and November, 1914, on the Alameda side of the bay at a rate any lower than the interstation commutation basis on the peninsula side, but on the contrary, in most cases, at higher rates.

While the complainant only indirectly attacked the commutation rates from San Francisco, considerable evidence was introduced to show that the individual monthly commutation rates from San Francisco and Oakland to points in Alameda County east of Fruitvale were, as a matter of fact, discriminatory as against the rates from San Francisco to points on the peninsula. The defendant, for example, has voluntarily established an individual monthly commutation rate of \$8.50 between Newark and San Francisco, approximately the same distance as San Francisco to Palo Alto, and from San Francisco to Niles likewise about the same distance. The distance from San Francisco to Niles is approximately .9 of a mile shorter than from San Francisco to Palo Alto and the distance on which the commutation rates were originally constructed to Newark was .7 of a mile less than from San Francisco to Palo Alto, hence it is apparent that the basis for constructing commutation rates to Palo Alto and points on the Peninsula line is not the same as used to construct commutation rates on the Newark and Niles line. The difference, however, is not great, con-

sidering the rate per mile per passenger, the commutation rates to Newark being based on approximately .00473 cents, while the commutation rates from San Francisco to peninsula points are based on .005 cents per mile.

The questions to be decided after a consideration of these various conflicting bases of rates are, whether or not they are unduly discriminatory or excessive and unreasonable.

We have made exhaustive tabulations of all tickets sold, passengers carried and revenue derived from the various classes of traffic on the Peninsula between each two points, San Francisco to San Jose inclusive. It will serve no good purpose to set out this mass of detail in this opinion and I will, therefore, confine myself to final results with such details as will illustrate and justify my conclusions.

Following is the total of our tabulations and covers all passenger traffic between each two points on the peninsula, San Francisco to San Jose, inclusive:

| | Total tickets | Total revenue | Total number passen- gers | Per- cent age | Average fare per passenger | Total miles | Average rate per mile |
|--------------------|------------------|------------------|------------------------------------|---------------------|----------------------------------|-------------|-----------------------------|
| One way ----- | 45,739 | \$28,192 95 | 45,739 | .14 | 61.6 | 962,426.0 | 2.93 |
| Round trip ----- | 24,151 | 31,768 30 | 48,302 | .15 | 65.8 | 1,542,426 0 | 2.37 |
| Commutation ----- | 5,473 | 31,170 55 | 225,850 | .71 | 13.8 | 4,260,446.6 | 0.74 |
| Totals ----- | 75,363 | \$91,131 80 | 319,891 | 1.00 | 28.5 | 6,565,308.6 | 1.383 |
| Less refunds ----- | | 1,373 02 | 12,231 | | | 336,528.6 | |
| | | \$89,758 78 | 307,660 | | 29.2 | 6,228,780 0 | 1.441 |

It will be seen that the results of our tabulations indicate that 71 per cent of all the travel on the Peninsula line is on commutation rates at an average rate of .0074 cents per mile and that the average rate per passenger mile for all passengers carried is .01441 cents.

It will likewise be apparent that the percentage of travel on single and round trip tickets is comparatively insignificant, and I am forced to the conclusion that the defendant has sustained its contentions that the great proportion of the travel is on commutation rates of various kinds.

The annexed tabulation, marked Exhibit C, pages 1, 2, 3 and 4, showing a detail of all passenger traffic from San Francisco, San Mateo and Palo Alto to a few important points illustrates a condition which the voluminous tabulations we have compiled demonstrates, obtains on all the traffic on the Peninsula and is typical of the entire situation.

While complainants have strenuously urged that the one-way fares down the Peninsula should be reduced to remove discrimination in favor of points on the Niles, Newark and Port Costa lines, they are silent

concerning the obvious advantages enjoyed by the Peninsula people concerning the ten-ride bearer ticket and other forms of reduced rate tickets not enjoyed by the people served by the Niles, Newark and Port Costa lines.

It ill becomes the people of a community to complain because another locality happens to have a lower one-way fare which is lower because of some abnormal conditions when they themselves have many different forms of transportation on a much lower basis than is accorded the other community. To illustrate this, Niles has a one-way fare of 75 cents from San Francisco, or .0266 cents per mile; Palo Alto pays three cents per mile for a one-way fare but has a ten-ride bearer ticket based on one and three-fourths cents per mile and many other forms of round trip tickets not enjoyed by the people of Niles. The advantage, if any, lies with the people of the Peninsula. I would not be understood as holding that some lower rates and different forms of transportation are not justified on the Peninsula because of the greater density of population and travel, but in deciding cases of this kind we must consider the entire situation and not confine our inquiry to fragmentary parts of the whole.

I believe the question of discrimination has been sufficiently discussed and we may proceed to a consideration of the charge of unreasonableness.

As counsel for complainant has well stated, it is practically impossible for complaining parties to prove that a rate is unreasonable on any other than the comparative basis because all details of the cost of operation earning from a particular class or traffic and kindred items are in the hands of the defendant carrier and inaccessible to complainants. Therefore in many cases, where necessary, the Commission calls for the data to determine the question for itself.

As indicated in the table heretofore set out, the average revenue per passenger mile for all of the passengers carried between San Francisco and San Jose and intermediate points was .01441 cents per mile for the month of October. For the fiscal year ending June 30, 1913, the average receipts per passenger mile of the Southern Pacific Company for intrastate traffic were .02133, and for the fiscal year ending June 30, 1914, the earnings per passenger mile were .02111 cents, slightly less than during the fiscal year of 1913. From this it will be seen that all of the passenger traffic handled by the Southern Pacific Company on the line between San Francisco and San Jose via the Peninsula route was handled at approximately 30 per cent less than the average of all of the traffic handled by the system.

It may well be argued that because of the density of travel on the Peninsula line that the complainants are entitled to a rate considerably lower than the average rate for all the passenger traffic handled by the

defendant. Conceding this to be so, the question now to be determined is whether a system of rates whereby the complaining cities between San Francisco and San Jose pay on an average 30 per cent less than an average rate paid all over the State are still burdened with rates which are in and of themselves excessive. Obviously this can not be determined on any other basis than a full consideration of the operating conditions, the earnings of the trains in service between San Francisco and San Jose, the average number of cars carried in a train and the average number of passengers on a car.

For the fiscal year ending June 30, 1913, on intrastate passenger traffic in California, the average passenger train revenue per mile was \$1.55, and in 1914, \$1.47. Without going into tiresome details, the result of our tabulations show that during the month of June, 1914, the average earnings of the trains in service between San Francisco and San Jose were \$1.48 per train mile, and in November \$1.59 per train mile.

It will thus be seen that the train mile earnings of those trains engaged in so-called suburban service between San Francisco and San Jose were approximately the same as the averages for all of the passenger trains in the State of California, but it must be noted at this point that the average earnings per passenger train mile for the entire system in California are based on an average of five passenger cars per train. Most of the heavy commutation trains in the Peninsula service carry from six to eight cars, and while the earnings are about the same on the Peninsula service as the general average for the entire system it requires more cars per train to adequately handle the traffic. In other words, while the earnings on the Peninsula service per train mile may be approximately the same as the average of all passenger trains operated by the defendant, the consist of the trains are not the same, the Peninsula trains being much above the average in number of cars carried. Likewise, during the fiscal year ending June 30, 1913, and June 30, 1914, an average of only seventeen passengers per car mile were carried and the average number of passengers per train mile was only sixty, considering all of the passenger traffic of the defendant in California, while in the Peninsula service the average number of passengers per train mile was 109.

Summarizing the above, then, we find that the Peninsula trains earn per train mile approximately the same as the general average of all trains in the State, but in the Peninsula service a greater number of cars are required than the general average, and, likewise, a greater number of passengers are carried per train mile, and as we have previously pointed out, at rates approximately 30 per cent less than the average of all of the passenger traffic in California.

When rates are attacked as excessive and unreasonable it must be primarily on the theory that the particular rates in question produce

revenue greater than is justified, thereby casting upon the patrons of the railroad paying such rates an undue burden.

We have made a most exhaustive investigation into all of the claims of the complainants in these cases and fail to find wherein they have substantiated the allegations of their complaints that the passenger rates on the Peninsula line are excessive and unreasonable. The only commutation rate that appears to be out of line is the individual monthly commutation rate between San Francisco and Palo Alto of \$9.05, a distance of 30.1 miles, based on one half cent per mile, as compared with the commutation rate San Francisco to Niles of \$8.50, a distance of 29.2 miles, based on .00485 cents per mile, or between San Francisco and Newark of \$8.50 based on the original mileage of 29.9 miles, or .00473 cents per mile. If, therefore, we found any discrimination to exist and the same basis of commutation rates now in effect to Newark to be reasonable between San Francisco and Palo Alto we would bring about a reduction of less than two cents per day to the commuter between San Francisco and Palo Alto.

In the months of June and November, 1914, six commutation tickets were sold between Newark and San Francisco, while during the month of October, between San Francisco and Palo Alto, 254 monthly individual commutation tickets were sold, 185 of which were sold at a rate of \$8.15, being a form of ticket which excludes Sunday travel and which is not accorded the people of Newark.

For the purpose of eliminating a discrimination of less than two cents per day given to perhaps three people a month between Newark and San Francisco, I am unwilling to condemn the whole basis of rates on the peninsula affecting several thousand commuters, particularly when the people of the peninsula already enjoy many forms of reduced rate transportation not similarly accorded people of Alameda County.

Viewing the complaints from every angle, I am of the opinion they should be dismissed and so recommend.

I submit the following order:

ORDER.

The San Mateo County Development Association, the City of Palo Alto and the Palo Alto Chamber of Commerce having filed with this Commission a complaint attacking certain one-way round trip and commutation rates of the Southern Pacific Company between San Francisco and San Jose and intermediate points, and a regular hearing having been had and the Commission being fully apprised in the premises, and basing its order on the findings set out in the opinion which precedes this order,

It is hereby ordered that the complaints of the San Mateo County Development Association, the City of Palo Alto and the Palo Alto Chamber of Commerce be and the same are hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of May, 1915.

EXHIBIT A.

Thirty-Ride Family Commutation Fares.

| | Old | New |
|----------------------------------|---------|---------|
| Between South San Francisco and— | | |
| Santa Clara ----- | \$21 00 | \$19 95 |
| San Jose ----- | 23 00 | 21 10 |
| Between San Bruno and— | | |
| Santa Clara ----- | 20 00 | 19 95 |
| San Jose ----- | 22 00 | 21 10 |

Individual Monthly Commutation Fares, Including Sunday.

| | Old | New |
|---|--------|--------|
| Between South San Francisco, San Bruno and— | | |
| Redwood ----- | \$8 00 | \$7 60 |
| Menlo Park ----- | 9 00 | 8 65 |
| Palo Alto ----- | 9 50 | 9 05 |
| Mayfield ----- | 10 00 | 9 55 |
| Mountain View ----- | 11 00 | 10 85 |
| Santa Clara ----- | 14 00 | 13 30 |
| San Jose ----- | 15 00 | 14 10 |
| Between Burlingame and— | | |
| Mountain View ----- | 11 00 | 10 85 |
| Santa Clara ----- | 14 00 | 13 30 |
| San Jose ----- | 14 35 | 14 10 |

EXHIBIT B.

| Between San Francisco and | 1 One-way fares | | 2 Daily excursion | | 3 Sunday excursion | | 4 Saturday to Monday excursion | | 5 Ten-day family | | 6 Thirty-day family | | 7 Individual monthly | | 8 Daily except Sun- day | | 9 Daily including Sun- day | |
|---------------------------------|-----------------------|--------|-------------------------|--------|--------------------------|--------|--------------------------------------|--------|------------------------|--------|---------------------------|--------|----------------------------|------|-------------------------------------|--------|--|-------|
| | *Old | *New | *Old | *New | *Old | *New | *Old | *New | *Old | *New | *Old | *New | *Old | *New | *Old | *New | *Old | *New |
| South San Francisco | \$0 30 | \$0 30 | \$0 40 | \$0 40 | ----- | \$0 35 | \$0 50 | ----- | \$1 90 | \$1 65 | \$6 00 | \$4 20 | \$4 50 | 2 | ----- | ----- | ----- | ----- |
| San Bruno | 35 | 35 | 50 | 50 | ----- | 40 | 50 | ----- | 2 20 | 1 95 | 7 00 | 4 95 | 5 00 | 2 | ----- | ----- | \$3 30 | 2 |
| Millbrae | 45 | 45 | 60 | 60 | ----- | 50 | 65 | \$0 75 | 2 75 | 2 40 | 9 00 | 6 15 | 5 50 | 2 | ----- | ----- | 4 10 | 2 |
| Burlingame | 50 | 50 | 70 | 70 | \$0 75 | 55 | 90 | 1 00 | 3 30 | 2 85 | 10 00 | 7 35 | 5 75 | 2 | ----- | \$4 40 | 4 90 | 2 |
| San Mateo | 55 | 55 | ----- | 75 | 75 | 65 | 1 00 | 1 00 | 3 00 | 3 15 | 11 00 | 8 05 | 6 00 | 2 | ----- | 4 85 | 5 35 | 2 |
| Redwood | 80 | 80 | ----- | 1 05 | 1 00 | 90 | 1 25 | 1 25 | 5 10 | 4 45 | 16 00 | 11 45 | 8 00 | 2 | ----- | 6 85 | 7 60 | 2 |
| Menlo Park | 90 | 90 | ----- | 1 20 | 1 25 | 1 00 | 1 50 | 1 25 | 5 80 | 5 05 | 18 00 | 13 00 | 9 00 | 2 | ----- | 7 80 | 8 65 | 2 |
| Palo Alto | 95 | 95 | ----- | 1 30 | 1 25 | 1 05 | 1 50 | 1 25 | 6 05 | 5 25 | 19 00 | 13 55 | 9 50 | 2 | ----- | 8 15 | 9 05 | 2 |
| Mayfield | 95 | 95 | ----- | 1 40 | 1 25 | 1 10 | 1 60 | 1 35 | 6 40 | 5 55 | 19 00 | 14 30 | 10 00 | 2 | ----- | 8 60 | 9 55 | 2 |
| Mountain View | 1 10 | 1 10 | ----- | 1 60 | 1 50 | 1 25 | 1 75 | 1 65 | 7 25 | 6 30 | 22 00 | 16 25 | 11 00 | 2 | ----- | 9 75 | 10 85 | 2 |
| Santa Clara | 1 25 | 1 25 | ----- | 2 00 | 1 75 | 1 40 | 2 00 | ----- | 8 90 | 7 75 | 25 00 | 19 25 | 14 00 | 2 | ----- | 11 95 | 13 30 | 2 |
| San Jose | 1 25 | 1 25 | ----- | 2 00 | 1 75 | 1 40 | 2 00 | ----- | 9 40 | 8 20 | 25 00 | 21 10 | 15 00 | 2 | ----- | 12 70 | 14 10 | 2 |

*Between San Francisco and points shown.

†From San Francisco to points shown.

Discontinued.

See columns 8 and 9 for new rates.

‡To San Francisco from points shown.

Recapitulation.

| Class of tickets | Total number tickets | Total revenue | Total number passengers | Average rate per passenger | Total miles | Average rate per mile |
|-------------------------|----------------------|--------------------|-------------------------|----------------------------|--------------------|-----------------------|
| San Francisco— | | | | | | |
| One way ----- | 8,916 | \$8,759 65 | 8,916 | 98.2 | 312,113.9 | 2.8 |
| Round trip ----- | 8,103 | 11,653 35 | 16,806 | 69.3 | 553,297.8 | 2.1 |
| Commutation ----- | 1,129 | 6,218 55 | 42,034 | 14.8 | 828,511.0 | 0.75 |
| Totals ----- | 18,148 | \$26,631 55 | 67,756 | 39.3 | 1,693,955.7 | 1.57 |
| Refunds ----- | | 333 26 | 2,349 | | 49,662.0 | |
| | | \$26,298 29 | 65,407 | 40.2 | 1,644,292.7 | 1.6 |
| San Mateo— | | | | | | |
| One way ----- | 3,686 | \$1,116 85 | 3,686 | 38.4 | 44,282.5 | 3.2 |
| Round trip ----- | 1,315 | 974 05 | 2,690 | 36.2 | 44,028.0 | 2.2 |
| Commutation ----- | 488 | 2,354 70 | 22,160 | 10.6 | 371,673.2 | 0.63 |
| Totals ----- | 5,519 | \$1,745 60 | 28,536 | 16.6 | 459,983.7 | 1.03 |
| Refunds ----- | | 102 30 | 839 | | 13,792 0 | |
| | | \$1,643 30 | 27,697 | 16.8 | 446,191.7 | 1.01 |
| Palo Alto - | | | | | | |
| One way ----- | 4,175 | \$2,276 55 | 4,175 | 50.9 | 72,538.9 | 3.1 |
| Round trip ----- | 3,477 | 3,347 45 | 6,954 | 48.1 | 161,937.8 | 2.1 |
| Commutation ----- | 714 | 4,873 55 | 21,400 | 22.8 | 452,169.1 | 1.1 |
| Totals ----- | 8,666 | \$10,497 55 | 32,829 | 32.0 | 686,585.8 | 1.53 |
| Refunds ----- | | 158 34 | 1,049 | | 25,808.0 | |
| | | \$10,339 21 | 31,780 | 32.5 | 660,777.8 | 1.56 |
| Totals— | | | | | | |
| One way ----- | 17,077 | \$12,453 05 | 17,077 | 72.9 | 428,965.3 | 2.9 + |
| Round trip ----- | 13,225 | 15,974 85 | 26,450 | 60.4 | 759,263.6 | 2.1 |
| Commutation ----- | 2,331 | 13,116 80 | 85,594 | 15.7 | 1,652,296.3 | 0.81 |
| Grand totals --- | 32,633 | \$41,874 70 | 129,121 | 32.4 | 2,840,525.2 | 1.17+ |
| Refunds ----- | | 593 90 | 4,237 | | 89,262.0 | |
| | | \$41,280 80 | 124,884 | 33.0 | 2,751,263.2 | 1.5 + |

STATEMENT OF TICKETS SOLD FROM SAN FRANCISCO TO SOUTH SAN FRANCISCO, BURLINGAME, SAN MATEO, REDWOOD, PALO ALTO AND SAN JOSE, DURING MONTH OF OCTOBER, 1914.

One Way Tickets.

| Miles | From SAN FRANCISCO to | Total number tickets | Rate | Total revenue | Total miles | Average rate per pass. | Average rate per mile (cents) | Total number pass. |
|-------|-----------------------------|----------------------------|--------|------------------|----------------|---------------------------------|---|--------------------------|
| 9.3 | S. San Francisco | 526 | \$0 30 | \$157 80 | 4,891.8 | \$0 30 | 3.2 | 526 |
| 16.3 | Burlingame | 680 | 50 | 340 00 | 11,084.0 | 50 | 3.1 | 680 |
| 17.9 | San Mateo | 795 | 55 | 437 25 | 14,230.5 | 55 | 3.1 | 795 |
| 25.4 | Redwood | 945 | 80 | 756 00 | 24,003.0 | 80 | 3.2 | 945 |
| 30.1 | Palo Alto | 1,313 | 95 | 1,247 35 | 39,521.3 | 95 | 3.2 | 1,313 |
| 46.9 | San Jose | 4,657 | 1 25 | 5,821 25 | 218,413.3 | 1 25 | 2.7 | 4,657 |
| | Totals | 8,916 | | \$8,759 65 | 312,143.9 | \$0 982 | 2.8 | 8,916 |

Sunday Round Trip.

| | | | | | | | | |
|------|------------------|-------|--------|------------|-----------|---------|-----|-------|
| 9.3 | S. San Francisco | 71 | \$0 35 | \$24 85 | 1,320.6 | \$0 175 | 1.9 | 142 |
| 16.3 | Burlingame | 172 | 55 | 94 60 | 5,607.2 | 275 | 1.7 | 344 |
| 17.9 | San Mateo | 152 | 65 | 98 80 | 5,441.6 | 325 | 1.8 | 304 |
| 25.4 | Redwood | 276 | 90 | 248 40 | 14,020.8 | 450 | 1.8 | 552 |
| 30.1 | Palo Alto | 363 | 1 05 | 381 15 | 21,852.6 | 525 | 1.7 | 726 |
| 46.9 | San Jose | 884 | 1 40 | 1,237 60 | 82,919.2 | 700 | 1.5 | 1,768 |
| | Totals | 1,918 | | \$2,085 40 | 131,162.0 | \$0 544 | 1.6 | 3,836 |

Saturday to Monday Round Trip.

| | | | | | | | | |
|------|------------------|---|--------|--------|-------|--------|-----|----|
| 9.3 | S. San Francisco | 1 | \$0 40 | \$0 40 | 18.6 | \$0 20 | 2.1 | 2 |
| 16.3 | Burlingame | | | | | | | |
| 17.9 | San Mateo | 3 | 75 | 2 25 | 107.4 | 375 | 2.1 | 6 |
| 25.4 | Redwood | 1 | 1 05 | 1 05 | 50.8 | 525 | 2.1 | 2 |
| 30.1 | Palo Alto | | | | | | | |
| 46.9 | San Jose | | | | | | | |
| | Totals | 5 | | \$3 70 | 176.8 | \$0 37 | 2.1 | 10 |

Double One Way (Round Trip).

| | | | | | | | | |
|------|------------------|-----|--------|----------|----------|---------|-----|-----|
| 9.3 | S. San Francisco | | | | | | | |
| 16.3 | Burlingame | 5 | \$1 00 | \$5 00 | 163.0 | \$0 50 | 3.1 | 10 |
| 17.9 | San Mateo | | | | | | | |
| 25.4 | Redwood | 15 | 1 60 | 24 00 | 762.0 | 80 | 3.2 | 30 |
| 30.1 | Palo Alto | 29 | 1 90 | 55 10 | 1,745.8 | 95 | 3.2 | 58 |
| 46.9 | San Jose | 86 | 2 50 | 215 00 | 8,066.8 | 1 25 | 2.7 | 172 |
| | Totals | 135 | | \$299 10 | 10,737.6 | \$1 107 | 2.8 | 270 |

Daily Round Trip.

| Miles. | From SAN FRANCISCO to — | Total number tickets | Rate | Total revenue | Total miles | Average rate per pass. | Average rate per mile (cents) | Total number pass. |
|--------|-------------------------------|----------------------------|--------|------------------|----------------|---------------------------------|---|--------------------------|
| 9.3 | S. San Francisco | | | | | | | |
| 16.3 | Burlingame | 419 | \$0 70 | \$293 30 | 7,793.4 | \$0 35 | 2.2 | 838 |
| 17.9 | San Mateo | 639 | 75 | 479 25 | 20,831.4 | 375 | 2.1 | 1,278 |
| 25.4 | Redwood | 1,082 | 1 05 | 1,136 10 | 38,735.6 | 525 | 2.1 | 2,164 |
| 30.1 | Palo Alto | 1,505 | 1 30 | 1,956 50 | 90,601.0 | 65 | 2.2 | 3,010 |
| 46.9 | San Jose | 2,695 | 2 00 | 5,390 00 | 252,791.0 | 1 00 | 2.1 | 5,390 |
| | Totals | 6,340 | | \$9,255 15 | 410,752.4 | \$0 729 | 2.2 | 12,680 |

Ten-Ride Bearer.

| | | | | | | | | |
|------|------------------|-----|--------|------------|-----------|---------|------|-------|
| 9.3 | S. San Francisco | 43 | \$1 65 | \$70 95 | 3,999.0 | \$0 165 | 1.8 | 430 |
| 16.3 | Burlingame | 77 | | | | | | |
| 17.9 | San Mateo | 55 | 3 15 | 173 25 | 9,845.0 | 315 | 1.8 | 550 |
| 25.4 | Redwood | 65 | 4 45 | 289 25 | 16,510.0 | 445 | 1.8 | 650 |
| 30.1 | Palo Alto | 160 | 5 25 | 840 00 | 48,160.0 | 525 | 1.7 | 1,600 |
| 46.9 | San Jose | 31 | 8 20 | 254 20 | 14,539.0 | 82 | 1.8 | 310 |
| | Totals | 431 | | \$1,847 10 | 105,604.0 | \$0 429 | 1.75 | 4,310 |

Thirty-Ride Family.

| | | | | | | | | |
|------|------------------|----|--------|------------|----------|---------|-----|-------|
| 9.3 | S. San Francisco | 2 | \$4 20 | \$8 40 | 558.0 | \$0 14 | 1.5 | 60 |
| 16.3 | Burlingame | 12 | 7 35 | 88 20 | 5,868.0 | 245 | 1.5 | 360 |
| 17.9 | San Mateo | 25 | 8 05 | 201 25 | 13,425.0 | 268 | 1.5 | 750 |
| 25.4 | Redwood | 11 | 11 45 | 125 95 | 8,382.0 | 332 | 1.5 | 330 |
| 30.1 | Palo Alto | 16 | 13 55 | 216 80 | 14,448.0 | 452 | 1.5 | 480 |
| 46.9 | San Jose | 25 | 21 10 | 527 50 | 35,175.0 | 703 | 1.5 | 750 |
| | Totals | 91 | | \$1,168 10 | 77,856.0 | \$0 428 | 1.5 | 2,730 |

Monthly Individual Except Sunday (54).

| | | | | | | | | |
|------|------------------|-----|--------|------------|-----------|---------|-----|--------|
| 9.3 | S. San Francisco | | | | | | | |
| 16.3 | Burlingame | 150 | \$4 40 | \$660 00 | 132,030.0 | \$0 061 | .49 | 8,100 |
| 17.9 | San Mateo | 67 | 4 85 | 421 95 | 84,094.2 | 09 | .05 | 4,698 |
| 25.4 | Redwood | 36 | 6 85 | 246 60 | 49,377.6 | 126 | .05 | 1,944 |
| 30.1 | Palo Alto | 48 | 8 15 | 391 20 | 78,019.2 | 151 | .05 | 2,592 |
| 46.9 | San Jose | 9 | 12 70 | 114 30 | 22,793.4 | 235 | .05 | 486 |
| | Totals | 330 | | \$1,834 05 | 366,314.4 | \$0 103 | .05 | 17,820 |

Monthly Individual Daily (62).

| | | | | | | | | |
|------|------------------|-----|--------|------------|-----------|---------|-----|--------|
| 9.3 | S. San Francisco | 97 | \$3 00 | \$291 00 | 55,930.2 | \$0 048 | .52 | 6,014 |
| 16.3 | Burlingame | 90 | 4 90 | 441 00 | 90,954.0 | 079 | .48 | 5,580 |
| 17.9 | San Mateo | 43 | 5 35 | 230 05 | 47,721.4 | 066 | .48 | 2,666 |
| 25.4 | Redwood | 23 | 7 60 | 174 80 | 36,220.4 | 122 | .48 | 1,426 |
| 30.1 | Palo Alto | 21 | 9 05 | 190 05 | 39,190.2 | 145 | .48 | 1,302 |
| 46.9 | San Jose | 3 | 14 10 | 42 30 | 8,723.4 | 227 | .48 | 186 |
| | Totals | 277 | | \$1,369 30 | 278,739.6 | \$0 08 | .49 | 17,174 |

Theatrical Round Trip.

| | | | | | | | | |
|------|----------|---|--------|---------|-----|--------|-----|----|
| 46.9 | San Jose | 5 | \$2 00 | \$10 00 | 469 | \$1 00 | 2.1 | 10 |
|------|----------|---|--------|---------|-----|--------|-----|----|

STATEMENT OF TICKETS SOLD FROM SAN MATEO TO SAN FRANCISCO, SOUTH SAN FRANCISCO, BELMONT, REDWOOD, PALO ALTO AND SAN JOSE, DURING MONTH OF OCTOBER, 1914.

One Way Tickets.

| Miles. | From SAN MATEO to— | Total number tickets | Rate | Total revenue | Total miles | Average rate per pass. | Average rate per mile (cents) | Total number pass. |
|--------|--------------------------|----------------------------|--------|-------------------|-----------------|---------------------------------|---|--------------------------|
| 17.9 | San Francisco ---- | 727 | \$0 55 | \$399 85 | 13,013.3 | \$0 55 | 3.1 | 727 |
| 8.6 | S. San Francisco.. | 118 | 25 | 29 50 | 1,014.8 | 25 | 2.9 | 118 |
| 4 | Belmont | 426 | 15 | 63 90 | 1,704.0 | 15 | 3.8 | 426 |
| 7.5 | Redwood | 1,506 | 25 | 376 50 | 11,295.0 | 25 | 3.3 | 1,506 |
| 12.2 | Palo Alto | 542 | 40 | 216 80 | 6,612.4 | 40 | 3.3 | 542 |
| 29 | San Jose | 367 | 90 | 330 30 | 10,643.0 | 90 | 3.1 | 367 |
| | Totals | 3,686 | | \$1,416 85 | 44,282.5 | \$0 384 | 3.2 | 3,686 |

Sunday Round Trip.

| | | | | | | | | |
|------|---------------------|------------|--------|-----------------|-----------------|----------------|------------|------------|
| 17.9 | San Francisco ---- | 136 | \$0 65 | \$88 40 | 4,868.8 | \$0 325 | 1.8 | 272 |
| 8.6 | S. San Francisco.. | | | | | | | |
| 4 | Belmont | | | | | | | |
| 7.5 | Redwood | | | | | | | |
| 12.2 | Palo Alto | 111 | 50 | 55 50 | 2,708.4 | 25 | 2.0 | 222 |
| 29 | San Jose | 57 | 1 00 | 57 00 | 3,306 0 | 50 | 1.7 | 114 |
| | Totals | 304 | | \$200 90 | 10,883.2 | \$0 329 | 1.8 | 608 |

Double One Way (Round Trip).

| | | | | | | | | |
|------|---------------------|------------|--------|-----------------|----------------|----------------|------------|------------|
| 17.9 | San Francisco ---- | 1 | \$1 10 | \$1 10 | 35.8 | \$0 55 | 3.1 | 2 |
| 8.6 | S. San Francisco.. | 16 | 50 | 8 00 | 275.2 | 25 | 2.9 | 32 |
| 4 | Belmont | 34 | 30 | 10 20 | 272.0 | 15 | 3.8 | 68 |
| 7.5 | Redwood | 138 | 50 | 69 00 | 2,070.0 | 25 | 3.3 | 276 |
| 12.2 | Palo Alto | 77 | 80 | 61 60 | 1,878.8 | 40 | 3.3 | 154 |
| 29 | San Jose | 40 | 1 80 | 72 00 | 2,300.0 | 90 | 3.1 | 80 |
| | Totals | 306 | | \$221 90 | 6,831.8 | \$0 362 | 3.2 | 612 |

Thirty-Ride Family.

| | | | | | | | | |
|------|---------------------|-----------|--------|-----------------|-----------------|----------------|-------------|--------------|
| 17.9 | San Francisco ---- | 29 | \$8 05 | \$233 45 | 15,573.0 | \$0 268 | 1.5 | 870 |
| 8.6 | S. San Francisco.. | 7 | 5 00 | 35 00 | 1,806.0 | 166 | 1.9 | 210 |
| 4 | Belmont | | | | | | | |
| 7.5 | Redwood | 10 | 5 00 | 50 00 | 2,250.0 | 166 | 2.2 | 300 |
| 12.2 | Palo Alto | | | | | | | |
| 29.0 | San Jose | 1 | 18 00 | 18 00 | 870.0 | 60 | 2.1 | 30 |
| | Totals | 47 | | \$336 45 | 20,499.0 | \$0 239 | 1.64 | 1,410 |

Fifty-two-Ride Students.

| Miles | From SAN MATEO to— | Total number tickets | Rate | Total revenue | Total miles | Average rate per pass. | Average rate per mile (cents) | Total number pass. |
|-------|--------------------------|----------------------------|------|------------------|----------------|---------------------------------|---|--------------------------|
| 17.9 | San Francisco ----- | | | | | | | |
| 8.6 | S. San Francisco ----- | | | | | | | |
| 4 | Belmont ----- | | | | | | | |
| 7.5 | Redwood ----- | 8 | | \$19 96 | 3,120.0 | \$0 048 | 0.64 | 416 |
| 12.2 | Palo Alto ----- | 6 | | 21 90 | 3,806.4 | 070 | 0.6 | 312 |
| 29.0 | San Jose ----- | 4 | | 32 20 | 6,032.0 | 154 | 0.53 | 208 |
| | Totals ----- | 18 | | \$74 00 | 12,958.4 | \$0 079 | 0.57 | 936 |

Monthly Individual Daily.

| | | | | | | | | |
|------|------------------------|-----|--------|----------|-----------|---------|------|-------|
| 17.9 | San Francisco ----- | 93 | \$5 35 | \$497 55 | 103,211.4 | \$0 086 | 0.48 | 5,766 |
| 8.6 | S. San Francisco ----- | 3 | 5 00 | 15 00 | 1,599.6 | 081 | 0.93 | 186 |
| 4 | Belmont ----- | | | | | | | |
| 7.5 | Redwood ----- | 19 | 4 45 | 84 55 | 8,835.0 | 072 | 0.96 | 1,178 |
| 12.2 | Palo Alto ----- | 7 | 6 00 | 42 00 | 5,294.8 | 097 | 0.79 | 434 |
| 29.0 | San Jose ----- | | | | | | | |
| | Totals ----- | 122 | | \$639 10 | 118,940.8 | \$0 084 | 0.54 | 7,564 |

| | | | | | | | | |
|------|--|------------------|------------------------|--------------------------------|-----------------------------------|----------------------|-------------------|------------------------|
| 17.9 | San Francisco— Daily round trip Ten-ride bearer— Monthly individ- ual except Sun- day ----- | 735 91 210 | \$0 75 3 15 4 85 | \$551 25 286 65 1,018 50 | 26,313.0 16,289.0 202,986.0 | \$0 375 315 09 | 2.1 1.8 1.5 | 1,470 910 11,310 |
|------|--|------------------|------------------------|--------------------------------|-----------------------------------|----------------------|-------------------|------------------------|

**STATEMENT OF TICKETS SOLD FROM PALO ALTO TO SAN FRANCISCO,
BURLINGAME, SAN MATEO, REDWOOD, MOUNTAIN VIEW AND SAN
JOSE, DURING MONTH OF OCTOBER, 1914.**

One Way Tickets.

| Miles. | From PALO ALTO to— | Total number tickets | Rate | Total revenue | Total miles | Average rate per pass. | Average rate per mile (cents) | Total number pass. |
|--------|--------------------------|----------------------------|--------------|-------------------|-----------------|---------------------------------|---|--------------------------|
| 30.1 | San Francisco ---- | 1,343 | \$0 95 | \$1,275 85 | 40,424.3 | \$0 95 | 3.2 | 1,343 |
| 13.8 | Burlingame ---- | 86 | 46 | 38 70 | 1,186.8 | 45 | 3.2 | 86 |
| 12.2 | San Mateo ---- | 623 | 40 | 249 20 | 7,600.6 | 40 | 3.3 | 623 |
| 4.7 | Redwood ---- | 1,148 | 15 | 172 20 | 5,395.6 | 15 | 3.2 | 1,148 |
| 6 | Mountain View ---- | 223 | 20 | 64 60 | 1,938.0 | 20 | 3.3 | 223 |
| 16.8 | San Jose ---- | 952 | 50 | 476 00 | 15,993.6 | 50 | 3.0 | 952 |
| | Totals ----- | 4,475 | ----- | \$2,276 55 | 72,538.9 | \$0 509 | 3.1 | 4,475 |

Sunday Round Trip.

| | | | | | | | | |
|------|---------------------|------------|--------------|-----------------|-----------------|----------------|------------|--------------|
| 30.1 | San Francisco ---- | 276 | \$1 05 | \$289 80 | 16,615.2 | \$0 525 | 1.7 | 552 |
| 13.8 | Burlingame ---- | | | | | | | |
| 12.2 | San Mateo ---- | | | | | | | |
| 4.7 | Redwood ---- | | | | | | | |
| 6 | Mountain View ---- | | | | | | | |
| 16.8 | San Jose ---- | 351 | 50 | 175 50 | 11,793.6 | 25 | 1.5 | 702 |
| | Totals ----- | 627 | ----- | \$165 30 | 28,448.8 | \$0 371 | 1.6 | 1,254 |

Saturday to Monday Round Trip.

| | | | | | | | | |
|------|---------------------|--------------|--------------|-------------------|-----------------|----------------|------------|--------------|
| 30.1 | San Francisco ---- | 1,028 | \$1 25 | \$1,285 00 | 61,885.6 | \$0 625 | 2.1 | 2,056 |
| 13.8 | Burlingame ---- | | | | | | | |
| 12.2 | San Mateo ---- | | | | | | | |
| 4.7 | Redwood ---- | | | | | | | |
| 6 | Mountain View ---- | | | | | | | |
| 16 | San Jose ---- | 397 | 75 | 297 75 | 13,339.2 | 375 | 2.2 | 794 |
| | Totals ----- | 1,425 | ----- | \$1,582 75 | 75,224.8 | \$0 555 | 2.1 | 2,850 |

Double One Way (Round Trip).

| | | | | | | | | |
|------|---------------------|------------|--------------|-----------------|-----------------|---------------|------------|--------------|
| 30.1 | San Francisco ---- | 8 | \$1 90 | \$15 20 | 481.6 | \$0 95 | 3.2 | 16 |
| 13.8 | Burlingame ---- | 23 | 90 | 20 70 | 634.8 | 45 | 3.2 | 46 |
| 12.2 | San Mateo ---- | 109 | 80 | 87 20 | 2,659.6 | 40 | 3.3 | 218 |
| 4.7 | Redwood ---- | 331 | 30 | 99 30 | 3,111.4 | 15 | 3.2 | 662 |
| 6 | Mountain View ---- | 74 | 40 | 29 60 | 888.0 | 20 | 3.3 | 148 |
| 16.8 | San Jose ---- | 92 | 1 00 | 92 00 | 3,091.2 | 50 | 3.0 | 184 |
| | Totals ----- | 637 | ----- | \$344 00 | 10,866.6 | \$0 27 | 3.2 | 1,274 |

Thirty-Ride Family.

| Miles..... | From PALO ALTO to..... | Total number tickets | Rate | Total revenue | Total miles | Average rate per pass. | Average rate per mile (cents) | Total number pass. |
|------------|------------------------------|----------------------------|---------|------------------|----------------|---------------------------------|---|--------------------------|
| 30.1 | San Francisco ---- | 64 | \$13 55 | \$867 20 | 57,792.0 | \$0 452 | 1.5 | 1,920 |
| 13.8 | Burlingame ----- | | | | | | | |
| 12.2 | San Mateo ----- | 4 | 8 00 | 32 00 | 1,461.0 | 266 | 2.2 | 120 |
| 4.7 | Redwood ----- | 11 | 3 00 | 33 00 | 1,551.0 | 10 | 2.1 | 330 |
| 6 | Mountain View --- | 2 | 4 00 | 8 00 | 360.0 | 133 | 2.2 | 60 |
| 16.8 | San Jose ----- | 9 | 10 00 | 90 00 | 4,536.0 | 333 | 2.0 | 270 |
| | Totals ----- | 90 | | \$1,030 20 | 65,703.0 | \$0 382 | 1.6 | 2,700 |

Fifty-two-Ride Students.

| | | | | | | | | |
|------|--------------------|----|--|---------|---------|---------|------|-----|
| 30.1 | San Francisco ---- | | | | | | | |
| 13.8 | Burlingame ----- | | | | | | | |
| 12.2 | San Mateo ----- | | | | | | | |
| 4.7 | Redwood ----- | 2 | | \$1 60 | 488.8 | \$0 047 | 0.99 | 104 |
| 6 | Mountain View --- | | | | | | | |
| 16.8 | San Jose ----- | 10 | | 48 90 | 8,736.0 | 695 | 0.57 | 520 |
| | Totals ----- | 12 | | \$53 50 | 9,224.8 | \$0 086 | 0.58 | 624 |

Monthly Individual Daily.

| | | | | | | | | |
|------|--------------------|-----|--------|----------|-----------|---------|------|-------|
| 30.1 | San Francisco ---- | 48 | \$9 05 | \$434 40 | 89,577.6 | \$0 145 | 0.48 | 2,976 |
| 13.8 | Burlingame ----- | | | | | | | |
| 12.2 | San Mateo ----- | 5 | 6 00 | 30 00 | 3,782.0 | 697 | 0.79 | 310 |
| 4.7 | Redwood ----- | 15 | 3 00 | 45 00 | 4,371.0 | 648 | 1.02 | 930 |
| 6 | Mountain View --- | 3 | 3 55 | 10 65 | 1,116.0 | 657 | 0.95 | 186 |
| 16.8 | San Jose ----- | 43 | 6 00 | 258 00 | 44,788.8 | 697 | 0.58 | 2,666 |
| | Totals ----- | 114 | | \$778 05 | 143,635.4 | \$0 11 | 0.54 | 7,068 |

| | | | | | | | | |
|------|--|-----|--------|----------|-----------|--------|-----|-------|
| 30.1 | San Francisco— Daily round trip | 558 | \$1 30 | \$725 40 | 33,591.6 | \$0 65 | 2.2 | 1,116 |
| | Theatrical round trip ----- | 230 | 1 00 | 230 00 | 13,846.0 | 50 | 1.7 | 460 |
| | Ten-ride bearer— Monthly individ- ual except Sun- day ----- | 361 | 5 25 | 1,895 25 | 10,866.1 | 525 | 1.7 | 3,610 |
| | | 137 | 8 15 | 1,116 55 | 222,679.8 | 155 | 0.5 | 7,358 |

DECISION No. 2368.

IN THE MATTER OF THE APPLICATION OF MARIN MUNICIPAL WATER DISTRICT FOR AN ORDER OF THE RAILROAD COMMISSION FIXING AND DETERMINING THE JUST COMPENSATION TO BE PAID TO MARIN WATER AND POWER COMPANY, FOR ITS LANDS, PROPERTY AND RIGHTS.

Application No. 1141.

Decided May 10, 1915.

REPORT OF THE COMMISSION.

The Commission has given careful consideration to the application of Marin Water and Power Company for a rehearing herein.

Although the opinion herein discusses only three of the grounds urged on the motion to strike out the testimony of the witness Wells, consideration was given to each ground urged, and the Commission was and is of the opinion that there is no merit in any of the grounds urged.

The miscellaneous equipment of Marin Water and Power Company was included in the property presented to the Commission by the district for valuation and the value thereof is included in the just compensation which was fixed and determined by the Commission.

Nothing further in the petition requires consideration.

ORDER DENYING APPLICATION FOR REHEARING.

Marin Water and Power Company having filed its application for a rehearing herein and careful consideration having been given to the same, and the Railroad Commission finding that no good reason exists why a rehearing should be held,

It is hereby ordered that said application be and the same is hereby denied.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2369.

IN THE MATTER OF THE APPLICATION OF NORTH MONETA GARDEN LANDS WATER COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN RATES FOR SALES OF WATER.

Application No. 1283.

Decided May 10, 1915.

Ingall W. Bull, for Applicant.

Charles M. Ackerman, for Consumers.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

At the time of the first opinion and order in this application, the Commission had not been furnished with competent data necessary to determine the rate to be charged by applicant for water used for irrigation purposes.

Data upon the flow of water from the standpipes on the North Moneta Garden tract has now been furnished to the Commission and has been checked by our hydraulic engineers. I am now prepared to recommend the rates specified in the supplemental order which follows, to be charged by applicant for water supplied for irrigation purposes. The facts are unusual and the decision herein will not be a precedent.

I submit the following form of supplemental order:

SUPPLEMENTAL ORDER.

North Moneta Garden Lands Water Company, having applied to this Commission for the establishment of a rate to be charged for water used for irrigation purposes, and a public hearing having been held on said application, and the applicant having now furnished to this Commission the necessary data upon which to base the charge to be established for such use,

It is hereby ordered that North Moneta Garden Lands Water Company be and the same is hereby authorized, effective June 1, 1915, to charge for irrigation water through a two (2) inch standpipe attached to a four (4) inch main, the following rates:

1. *Flat rate.* A flat rate of 50 cents per hour's run through each hydrant; or

2. *Metered rate.* (a) Whenever the consumer desires to provide his own meter, a rate of six (6) cents per one hundred (100) cubic feet; (b) if North Moneta Garden Lands Water Company furnishes the meter, a rate of seven and one half ($7\frac{1}{2}$) cents per one hundred (100) cubic feet.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2370.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY FOR AN ORDER TO ISSUE ONE THOUSAND SHARES OF THE FIRST PREFERRED STOCK OF SAID CORPORATION AT NINETY PER CENT OF PAR VALUE THEREOF, AND FOR AN ORDER ALLOWING THE PAYMENT OF A BROKERAGE COMMISSION NOT TO EXCEED FIVE PER CENT FOR THE SALE OF SAID STOCK.

Application No. 1549.

Decided May 10, 1915.

Applicant applies for permission to issue 1,000 shares of its capital stock of the par value of \$100.00 per share for the purposes of discharging a note in the sum of \$83,370.72, the balance to be applied in betterments to its property, and a review of its financial condition showing that such an issue is warranted, also that applicant has lately taken great steps to improve itself financially, application granted, such stock to be sold at not less than \$5, proceeds to be used for purposes as applied for.

H. A. Van C. Torchiana, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

This is an application by Coast Counties Gas and Electric Company to issue 1,000 shares of first preferred stock; to sell said stock at not less than \$90.00 per share, and to use the proceeds for the discharge of notes payable in the sum of \$83,370.72, and to apply the balance upon additions and betterments to its property.

Coast Counties Gas and Electric Company owns and operates gas plants in Santa Cruz, Watsonville, Hollister and Gilroy, and electric light and power systems in the same territory and its environs. It also owns the capital stock of the Union Traction Company, a street railway company operating in the city of Santa Cruz.

The applicant reports an authorized capital stock of \$4,000,000.00, divided into 40,000 shares of the par value of \$100.00 per share. Ten thousand shares are first preferred, 10,000 shares are original preferred, and the remaining are common stock. Of this authorized issue the applicant has outstanding 10,000 shares of original preferred stock and 10,000 shares of common stock. There remains unissued 10,000 shares of its first preferred stock and 10,000 shares of its common stock.

The applicant reports outstanding as a direct indebtedness of Coast Counties Gas and Electric Company its 6 per cent debentures in the sum of \$150,000.00. The applicant reports further the following mortgages and mortgage indebtedness of its predecessors which are

present existing mortgages and present existing indebtedness against the properties of Coast Counties Gas and Electric Company:

Coast Counties Light and Power Company first mortgage 5 per cent sinking fund, gold, dated August 1, 1906, callable at 107½, due August 1, 1946, interest February-August 1, Mercantile Trust Company, San Francisco. Sinking fund commences June 30, 1911; 1 per cent of bonds annually, bonds to be kept alive. Trustee, Mercantile Trust Company of San Francisco.

| | |
|----------------------------|--------------|
| Outstanding ----- | \$956,000 00 |
| Sinking fund (alive) ----- | 44,000 00 |

| | |
|------------------|----------------|
| Authorized ----- | \$1,000,000 00 |
|------------------|----------------|

Big Creek Light and Power Company first mortgage 4 per cent sinking fund, forty-year gold, dated May 1, 1907, callable at par on any interest date. Due May 1, 1947, interest May-November 1, Mercantile Trust Company, San Francisco. Sinking fund commencing March 30, 1908, \$3,000 per annum to be applied to the purchase of these bonds, which shall be kept alive. Trustee, Mercantile Trust Company, San Francisco.

| | |
|------------------------------------|--------------|
| Outstanding ----- | \$312,000 00 |
| Held by sinking fund (alive) ----- | 27,000 00 |

| | |
|------------------|--------------|
| Authorized ----- | \$339,000 00 |
|------------------|--------------|

San Benito Light and Power Company first mortgage 6 per cent sinking fund, gold, dated September 1, 1910, callable at 110 and interest, due September 1, 1950, interest March-September 1, Anglo-California Trust Company, San Francisco. Sinking fund commences June 30, 1915, 1 per cent annually of bonds, outstanding bonds to be kept alive. Trustee, Anglo-California Trust Company, San Francisco.

| | |
|-------------------|--------------|
| Outstanding ----- | \$150,000 00 |
| In treasury ----- | 50,000 00 |

| | |
|------------------|--------------|
| Authorized ----- | \$200,000 00 |
|------------------|--------------|

The Union Traction Company, which is controlled through stock ownership by the applicant, has a mortgage indebtedness of \$650,000.00.

The applicant also reports an outstanding issue of promissory notes amounting to \$83,370.72.

For the calendar year ending December 31, 1914, Coast Counties Gas and Electric Company reported the following earnings and expenses:

Earnings.

| | |
|-----------------------------|--------------|
| Electric revenue ----- | \$248,706 61 |
| Gas revenue ----- | 96,776 59 |
| Miscellaneous revenue ----- | 4,310 80 |
| | <hr/> |
| | \$349,794 00 |

Expenses.

| | |
|---------------------------------------|-------------|
| Electric production operation ----- | \$72,300 66 |
| Electric transmission operation ----- | 2,534 64 |
| Electric distribution operation ----- | 9,272 09 |
| Electric production repairs ----- | 2,499 56 |
| Electric transmission repairs ----- | 4,390 93 |
| Electric distribution repairs ----- | 9,817 42 |
| Electric commercial expense ----- | 10,543 10 |
| General and miscellaneous ----- | 1,896 34 |

56—17493

| | | | |
|---|------------------|-----------|---------------------|
| Gas production operation..... | 33,878 | 71 | |
| Gas distribution operation..... | 5,042 | 80 | |
| Gas production repairs..... | 3,266 | 92 | |
| Gas distribution repairs..... | 2,005 | 11 | |
| Gas commercial expense..... | 9,156 | 00 | |
| Gas general expense..... | 897 | 88 | |
| | <u>\$167,302</u> | <u>16</u> | |
| Less joint operating expense..... | 14,760 | 04 | |
| | <u>\$152,542</u> | <u>12</u> | |
| General office salaries and expenses including insurance and damages..... | 16,525 | 54 | |
| Taxes | 18,092 | 18 | |
| | | | <u>187,159 84</u> |
| | | | <u>\$162,634 16</u> |
| Interest on funded debt..... | \$75,925 | 12 | |
| Other interest | 6,064 | 70 | |
| | | | <u>81,979 82</u> |
| | | | <u>\$80,654 34</u> |
| Depreciation | | | <u>20,000 00</u> |
| | | | <u>\$60,654 34</u> |

For the fiscal year ending June 30, 1914, Union Traction Company reported earnings and expenses as follows:

| | | | |
|--|----------|----|--------------------|
| Operating revenues | \$81,032 | 86 | |
| Operating expenses..... | 53,607 | 31 | |
| | | | <u>\$27,425 55</u> |
| Net operating revenue..... | | | |
| <i>Deductions from income.</i> | | | |
| Taxes— | | | |
| On real and personal property..... | \$151 | 17 | |
| On capital stock..... | 52 | 00 | |
| On earnings..... | 4,257 | 42 | |
| Miscellaneous | 49 | 18 | |
| | | | <u>\$4,509 77</u> |
| Interest— | | | |
| On funded debt..... | 31,653 | 32 | |
| | | | <u>36,163 09</u> |
| Total deductions..... | | | |
| | | | <u>\$8,737 54</u> |
| Net loss | | | |
| | | | <u>\$8,737 54</u> |
| Deficit for year..... | | | |
| Surplus at beginning of year..... | | | <u>3,979 81</u> |
| | | | <u>\$4,757 73</u> |
| Profit or loss adjustments during year: Credits..... | | | <u>825 00</u> |
| | | | <u>\$3,932 73</u> |
| Deficit at close of year..... | | | |

Coast Counties Gas and Electric Company submitted the following statement of assets and liabilities as of December 31, 1914:

| | | |
|---|-------------|-----------------------|
| <i>Capital accounts.</i> | <i>Dr.</i> | |
| Plant | \$2,761,624 | 81 |
| Organization | 1,956 | 70 |
| San Francisco office furniture and fixtures..... | 944 | 85 |
| | | <u>\$2,764,526 36</u> |
| <i>Investments.</i> | | |
| Investment in Union Tract. Company..... | \$855,180 | 14 |
| Investment in Gilroy Appliance Company..... | 775 | 00 |
| | | <u>855,955 14</u> |
| <i>Sinking funds.</i> | | |
| Sinking funds—Coast C. L. & P. Company..... | \$45,196 | 65 |
| Sinking fund—B. C. L. & P. Company..... | 29,153 | 32 |
| | | <u>74,349 97</u> |
| <i>Treasury securities.</i> | | |
| Bonds in treasury—S. B. L. & P. Company..... | \$50,000 | 00 |
| Six per cent debentures unissued..... | 150,000 | 00 |
| Stock in treasury—preferred..... | 1,000,000 | 00 |
| Stock in treasury—common..... | 1,000,000 | 00 |
| | | <u>2,200,000 00</u> |
| <i>Cash.</i> | | |
| Cash in bank..... | \$3,584 | 49 |
| Petty cash | 1,025 | 00 |
| | | <u>4,609 49</u> |
| <i>Accounts and bills receivable.</i> | | |
| Bills receivable—consumers | \$13,853 | 63 |
| Accounts receivable—consumers..... | 54,130 | 56 |
| Accounts receivable—S. C. B. Company..... | 7,825 | 97 |
| Bills receivable—S. C. B. Company..... | 795 | 45 |
| | | <u>76,605 61</u> |
| <i>Material and supplies.</i> | | |
| Material and supplies..... | | 24,489 33 |
| Union Traction Company | | 9,704 11 |
| <i>Deferred expense.</i> | | |
| Prepaid insurance | | 859 86 |
| Suspense expense | | 940 53 |
| Deferred interest | | 1,228 44 |
| Deferred legal expense..... | | 691 75 |
| <i>Deferred charges inter-division.</i> | | |
| Deferred charges inter-division..... | | 7,118 75 |
| <i>Reserves.</i> | | |
| Reserve for bad and doubtful accounts..... | | 989 22 |
| Unamortized discount on securities and expense..... | | 10,427 31 |
| | | <u>\$6,032,495 87</u> |
| <i>Capital stock.</i> | | |
| Capital stock—preferred..... | \$2,000,000 | 00 |
| Capital stock—common | 2,000,000 | 00 |
| | | <u>\$4,000,000 00</u> |
| <i>Bonds.</i> | | |
| Bonds—Coast Counties L. & P. Company..... | \$1,000,000 | 00 |
| Bonds—B. C. L. & P. Company..... | 339,000 | 00 |
| Bonds—S. B. L. & P. Company..... | 200,000 | 00 |
| | | <u>1,539,000 00</u> |
| <i>Debentures.</i> | | |
| Six per cent debentures..... | | 300,000 00 |

Accrued bonds and debenture interest.

| | | |
|---|-------------|-----------------|
| Accrued bond interest, C. C. L. & P. Company----- | \$20,833 32 | |
| Accrued bond interest, B. C. L. & P. Company----- | 2,260 00 | |
| Accrued bond interest, S. B. L. & P. Company----- | 3,000 00 | |
| Accrued debenture interest----- | 4,500 00 | |
| | | <hr/> 30,593 32 |

Accrued general interest.

| | | |
|-------------------------------|--|--------|
| Accrued general interest----- | | 231 90 |
| Prepaid taxes ----- | | 527 47 |

Bills payable.

| | | |
|---------------------|--|-----------|
| Bills payable ----- | | 66,604 16 |
|---------------------|--|-----------|

Deposits.

| | | |
|----------------------|------------|----------------|
| Meter deposits ----- | \$2,840 20 | |
| Line deposits ----- | 2,790 50 | |
| | | <hr/> 5,630 70 |

Sundry creditors.

| | | |
|------------------------|--|-----------|
| Accounts payable ----- | | 26,185 66 |
|------------------------|--|-----------|

Unpaid drafts.

| | | |
|----------------------|--|----------|
| Unpaid pay roll----- | | 6,242 34 |
|----------------------|--|----------|

Reserves.

| | | |
|-------------------------------------|--|----------------------|
| Casualty and insurance reserve----- | | 3,635 51 |
| Accrued depreciation reserve----- | | 20,580 00 |
| Surplus ----- | | 33,264 81 |
| | | <hr/> \$6,032,495 87 |

Union Traction Company reported the following statement of assets and liabilities of June 30, 1914:

Assets.

| | |
|--------------------------------------|----------------|
| Cost of equipment----- | \$1,398,275 15 |
| Funded debt in treasury----- | 100,000 00 |
| Cash and current assets----- | 646 20 |
| Sinking and other special funds----- | 19,000 00 |
| Deficit ----- | 3,932 73 |

| | |
|-------------|----------------------|
| Total ----- | <hr/> \$1,521,854 08 |
|-------------|----------------------|

Liabilities.

| | |
|--------------------------------------|--------------|
| Capital stock—common ----- | \$750,000 00 |
| Funded debt ----- | 750,000 00 |
| Current liabilities ----- | 8,704 92 |
| Accrued liabilities not yet due----- | 13,149 16 |

| | |
|-------------|----------------------|
| Total ----- | <hr/> \$1,521,854 08 |
|-------------|----------------------|

The Commission has heretofore passed upon the affairs of this applicant and has considered the value of its properties.

In Decision No. 1124 upon Application No. 750, rendered December 13, 1913, the estimate of the reproduction cost of the properties at that time was given as \$2,265,297.00 and the depreciated reproduction cost at \$1,971,353.41. This did not include certain properties and was confined to the physical assets of this corporation.

This appraisal included an estimate of \$1,675,832.00 as the reproduction cost of the properties held directly by the Coast Counties Gas

and Electric Company, excluding therefore the street railway properties.

The depreciated reproduction cost was tentatively figured at \$1,341,-465.00. This item was increased by approximately \$142,000.00 of liquid assets. Since that time the company has added a substantial amount of property to its plant. I am, therefore, of the opinion that the facts available before this Commission as to value are sufficient at this time to justify the issue of first preferred stock herein requested without a more detailed inventory.

In January, 1915, the applicant amended its articles of incorporation so as to provide for the first preferred stock which it now desires to issue. The classes of applicant's stock are described as follows in its amended articles of incorporation:

"The amount of the capital stock of said corporation is and shall be four million (\$4,000,000) dollars and the number of shares into which said capital stock is and shall be divided is forty thousand (40,000) shares of the par value of one hundred (\$100) dollars each. Ten thousand (10,000) of said shares are and shall be first preferred stock; ten thousand (10,000) of said shares are and shall be original preferred stock; and the remaining twenty thousand (20,000) shares are and shall be common stock.

Shares of such first preferred stock and original preferred stock, the subscription price of which shall not have been fully paid, shall be subject to assessment or calls only for the balance of the subscription price thereof. No share of such first preferred stock or original preferred stock, the subscription price of which shall have been fully paid, shall be subject to assessment for the purpose of paying the expenses, conducting the business or paying the debts of said corporation, or for any other purpose whatsoever.

The owners and holders of shares of said first preferred stock, when issued as fully paid, are and shall be entitled to receive from the surplus profits arising from the business of this corporation, when and as declared by its board of directors, cumulative preferential dividends at the rate of six (6) per cent per annum, and no more, upon the par value thereof; and such dividends shall be declared and shall be either paid or set apart for payment from the date of the original issue of such shares of first preferred stock before any dividends upon said original preferred stock or said common stock shall be either declared or paid.

Upon the liquidation or dissolution of this corporation at any time and in any manner, the owners and holders of fully paid shares of said first preferred stock will be entitled to receive, out of the surplus profits derived from the business of this corporation then remaining undistributed, an amount equal to dividends upon the shares of such first preferred stock held by them, at the rate aforesaid, from the date of the original issue of such shares, less the amount of such dividends as shall theretofore have been paid thereon, or so much thereof as the surplus profits so remaining shall be sufficient to pay, and also out of any of the assets of this corpo-

ration, an amount equal to the par value of such shares before any amount shall be paid to the holders of said original preferred stock or said common stock.

If any share or shares of first preferred stock shall at any time be issued as only partly paid, the owners and holders of such partly paid share or shares shall have the right to receive dividends and to share in the assets of this corporation, upon its liquidation or dissolution in all respects like the owners and holders of fully paid shares of first preferred stock, except that such right shall be only in proportion to the amount paid on account of the subscription price for which said partly paid share or shares shall have been issued.

When all accrued dividends at the rate aforesaid upon all of the issued and outstanding shares of said first preferred stock of this corporation shall have been declared and shall have been either paid or set apart for payment, but not before, the owners and holders of shares of said original preferred stock (all of which has heretofore been issued as fully paid) shall be entitled to receive, out of the remaining surplus profits arising from the business of this corporation when and as declared by its board of directors, cumulative preferential dividends at the rate of six per cent per annum, and no more, upon the par value thereof; and such dividends shall be declared and shall be paid or set apart for payment from the date of the original issue of such original preferred shares before any dividend on said common stock shall be declared or paid.

Upon the liquidation or dissolution of this corporation at any time or in any manner, after the owners and holders of such first preferred stock shall have been paid the full amount to which they shall have been entitled under the provisions of these articles of incorporation, the owners and holders of shares of said original preferred stock will be entitled to receive out of the residue of the surplus profits derived from the business of this corporation then remaining undistributed, an amount equal to dividends upon the shares of original preferred stock held by them, at the rate aforesaid, from the date of the original issue of such shares less the amount of such dividends as shall theretofore have been paid thereon, or so much thereof as the surplus profits so remaining shall be sufficient to pay and also out of the residue of the assets of this corporation an amount equal to the face or par value of such shares before any amount shall be paid to the holders of said common stock.

The common stock of this corporation shall be subject to assessment as provided in the Civil Code of California after as well as before the same shall have been fully paid. When all accrued dividends at the rate aforesaid upon all of the issued and outstanding shares of the first preferred stock and also upon all of the issued and outstanding shares of the original preferred stock of this corporation shall have been paid or set apart, for payment, but not before, dividends may be declared and paid out of the surplus profits arising from the business of this corporation, upon all of the issued and outstanding shares of said common stock; and upon the liquidation or dissolution of said corporation, after the

owners of such first preferred stock and original preferred stock have been paid the full amount to which they shall be entitled under the foregoing provisions of these articles of incorporation, the owners of such common stock shall be entitled to receive and to have paid to them the entire residue of the assets of said corporation in proportion to the number of shares of such common stock held by them respectively.

Any and all of the shares of first preferred stock may be called for payment and redemption by this corporation at its option, at any time on the payment to the owner and holder thereof of the par value thereof plus any accrued dividends.

If at any time, whether by virtue of any amendments of these articles of incorporation or any amendment or change of the law of the State of California relating to corporation or otherwise, any assessment shall, in any event whatever, be levied and collected on any subscribed and issued shares of said first preferred stock after the subscription price thereof shall have been paid in full, the rights of the owners and holders thereof to receive dividends and their rights to share in the assets upon the liquidation or dissolution of this corporation shall, immediately upon the payment of such assessment and by virtue thereof, be increased in the same ratio as the total amount of the assessment or assessments so levied and collected shall bear to the par value of such shares of first preferred stock.

No assessment levied or calls made on partly paid first preferred stock, or original preferred stock or upon common stock of this corporation shall be recoverable by action or be enforceable otherwise than by sale of delinquent stock as provided in sections 331 and 348 of the Civil Code of California.

Every certificate of stock issued by said corporation shall show what proportion of the subscription price of the stock represented thereby has actually been paid, and shall contain a statement to the effect that no assessment levied thereon shall ever be recoverable by action or enforceable otherwise than by sale of delinquent stock as provided by sections 331 and 348 of the Civil Code of California.

The board of directors of this corporation shall, notwithstanding the foregoing provisions of these articles of incorporation, have authority from time to time to set aside out of the profits arising from the business of this corporation such reasonable sums as may in their judgment be necessary and proper for working capital and for usual reserves and surplus."

The applicant amended its articles of incorporation in order to provide for an issue of \$1,000,000.00 of its first preferred stock. The purpose is to provide a means of supplemental financing so that this applicant may go forward through the issue hereafter, if need be, of bonds and first preferred stock. This Commission has heretofore expressed its approval of this general plan of financing, and it is my opinion that this applicant should be commended for the steps which it has taken at this time to strengthen its general financial condition.

The applicant proposes to sell its first preferred stock at \$90.00 per share and asks authority, if need be, to pay a commission of \$5.00 per share. If the stock is sold at \$90.00 per share and thereafter draws dividends at 6 per cent as is proposed, this money will cost the company $6.66\frac{2}{3}$ per cent. If the stock is sold at \$85.00 per share, the cost to the company would figure 7.05 per cent.

This applicant has heretofore been able to finance itself along conservative lines and at rates of interest well below the average. It would appear also in this instance that it proposes to sell its preferred stock on a better basis than has obtained during the present period for many companies of larger size.

In order that this applicant shall have the latitude desired in this matter, I recommend that it be authorized to sell its stock so as to net the company not less than 85 per cent of the par value, with the understanding, of course, that the company will, if possible, obtain the full 90 per cent.

The applicant has filed as Exhibit 1, a list of the notes which it proposes to discharge from the proceeds of the stock which it proposes to sell. These notes, according to the evidence submitted by the applicant, were given in payment for additions and betterments to the applicant's property or for funds which were used to acquire such additions and betterments.

I therefore recommend that the application be granted and submit the following form of order:

ORDER.

Coast Counties Gas and Electric Company having applied to this Commission for authority to issue 1,000 shares of its first preferred capital stock as set forth in the foregoing opinion, and a hearing having been held and it appearing that the purposes for which it is proposed to issue such stock are not chargeable to operating expenses or to income,

It is hereby ordered that Coast Counties Gas and Electric Company be granted authority and it is hereby granted authority to issue 1,000 shares of its first preferred stock and to sell the same at not less than 85 per cent of par value.

The authority herein granted to the applicant is granted upon the following conditions and not otherwise:

1. The moneys derived from the sale of the stock herein authorized to be issued, shall be applied toward the payment of applicant's notes payable as filed with this Commission as Exhibit 1 in this application, and such moneys as may be otherwise available after the payment of said notes shall be used for additions and betterments to applicant's properties.

2. Coast Counties Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted shall apply to such stock as shall have been issued on or before June 30, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2371.

IN THE MATTER OF THE APPLICATION OF HOME TELEPHONE AND TELEGRAPH COMPANY OF SANTA BARBARA COUNTY FOR AUTHORIZATION TO RENEW A PROMISSORY NOTE.

Application No. 1611.

Decided May 10, 1915.

Applicant, having outstanding a note in the sum of \$15,000.00 which it desires to renew, applies for and is granted permission to issue a note in a like amount for purposes of renewal and to pledge \$27,000.00 face value of its bonds as security therefor.

Richards & Carrier, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Home Telephone and Telegraph Company of Santa Barbara County having made application to this Commission for authority to refund a promissory note in the sum of \$15,000.00 held by Santa Barbara Savings and Loan Bank, and to pledge as collateral security for said note twenty-seven thousand (27,000) dollars of its first mortgage bonds;

And a hearing having been held, and it appearing that the purpose for which the applicant proposes to issue said promissory note and pledge said bonds is a proper purpose, as defined by the Public Utilities Act, and is not reasonably chargeable to operating expenses or to income,

It is hereby ordered that Home Telephone and Telegraph Company of Santa Barbara County be granted authority, and it is hereby granted authority, to issue a promissory note to Santa Barbara Savings and

Loan Bank in the sum of fifteen thousand (15,000) dollars; said note to bear interest at not to exceed 6 per cent per annum, and to be payable not later than two years after date of March 10, 1915.

It is further ordered that Home Telephone and Telegraph Company of Santa Barbara County be granted authority, and it is hereby granted authority, to pledge twenty-seven thousand (27,000) dollars, face value of its first mortgage 5 per cent thirty-year bonds as collateral security for the note herein authorized to be issued.

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The note herein authorized to be issued shall be used for the sole purpose of refunding a similar note in like amount, authorized by this Commission in an order dated January 22, 1914.

2. The authority herein granted shall apply only to such note as shall have been issued on or before July 1, 1916.

3. The applicant herein shall report to this Commission within thirty (30) days after the issue of the note herein authorized, stating that such note has been issued and stating the note canceled or refunded.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2372.

IN THE MATTER OF THE APPLICATION OF HOME TELEPHONE AND
TELEGRAPH COMPANY OF SANTA BARBARA FOR AUTHORITY
TO RENEW A CERTAIN PROMISSORY NOTE.

Application No. 1612.

Decided May 10, 1915.

Applicant, having outstanding a note in the sum of \$10,000.00 which it desires to renew, applies for and is granted permission to issue a new note in renewal thereof, such note to be of a like face value and bearing an equal interest rate.

Richards & Carrier, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Home Telephone and Telegraph Company of Santa Barbara having made application to this Commission for authority to issue a promissory note to the Commercial Bank of Santa Barbara in the sum of ten thousand (10,000) dollars, for the purpose of refunding a similar note now outstanding;

And a hearing having been held, and it appearing that the purpose for which the applicant proposes to issue said promissory note is a

proper purpose as defined by the Public Utilities Act, and is not reasonably chargeable to operating expenses or income,

It is hereby ordered that the Home Telephone and Telegraph Company of Santa Barbara be granted authority, and it is hereby granted authority, to issue a promissory note to the Commercial Bank of Santa Barbara in the sum of ten thousand (10,000) dollars; said note to bear interest at not to exceed 6 per cent per annum, and be payable not later than two years after date of January 29, 1915.

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The note herein authorized to be issued shall be used for the sole purpose of refunding a similar note in like amount authorized by this Commission in an order dated January 16, 1914.

2. The authority herein granted shall only apply to such note as shall have been issued on or before July 1, 1915.

3. The applicant herein shall report to this Commission within thirty days after the issuance of the note herein authorized, stating that such note has been issued and stating the note canceled or refunded.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2373.

IN THE MATTER OF THE APPLICATION OF THE METEOR BOAT COMPANY FOR AUTHORITY TO CORRECT ERROR IN PUBLISHING TARIFF AND TO MAKE CHANGES IN PARTY FARES RESULTING IN INCREASE.

Application No. 1647.

Decided May 10, 1915.

Applicant, operating pleasure boats between Long Beach, San Pedro and Catalina Island, applies for permission to correct an error in its published tariff which provides a rate of 25 cents instead of 50 cents, Avalon to Seal Rocks, and also for permission to increase its party excursion rates, and it appearing that the rate of 25 cents was published purely in error, and that the party excursion rate increase is warranted, application granted.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Applicant, the Meteor Boat Company, is engaged in the business of transporting passengers from Long Beach and San Pedro, California, to Avalon, California, and around the Santa Catalina Island upon which Avalon is located.

In this application the applicant asks to correct an error made in publishing its local passenger tariff No. 10, naming passenger fares between Avalon, California, and points reached by the Meteor Boat Company, issued April 30, 1914—effective July 10, 1914. In this tariff the one way fare between Avalon and Seal Rocks, California, was published at twenty-five (25) cents. The one way and return fare, by error, was also made twenty-five (25) cents where it should be fifty (50) cents, and request is now made to correct that error.

There is no question but that applicant should be permitted to correct the error in its tariff above described, and I shall recommend that that part of the application be granted.

Local passenger tariff No. 10, above referred to, also provides for party fares as follows:

“The following reductions will be made on fares listed in Item No. 1 for regularly organized parties:

Parties of twenty or more, but less than fifty, 20 per cent off.

Parties of fifty or more, but less than one hundred, 30 per cent off.

Parties of one hundred, 50 per cent off

The above reductions apply to trips on Marine Garden vessels only. No reductions on trips around the island, or to or from Long Beach or San Pedro.”

The company now requests to change its tariff relating to passenger fares and to substitute therefor the following:

“The following reduction will be made on fares listed in Item No. 1 for regularly organized parties:

Parties of thirty or more, 10 per cent off.

The above reduction applies to trips on Marine Garden vessels only. No reduction on trips around the island, or to or from Long Beach or San Pedro.”

Applicant alleges, as a reason why it desires to change and increase its party fares, the fact that new and more expensively equipped boats, etc., have become necessary and that its operating expenses have increased to such an extent that it is absolutely impossible to handle the business at a profit under existing schedules, and presents in support of this latter statement a financial statement marked Exhibit “B,” to which reference is hereby made, showing that the business was operated at a large deficit during the last fiscal year, and that no dividends have been possible during the past three years.

Applicant further alleges that, under existing conditions at Catalina, the traffic has to be handled in a very short space of time as compared with former conditions, which also increases the cost of operation.

After going into the records carefully with the rate department of the Commission, I am of the opinion and find that the request of applicant, to change its party fares, should be granted; and I find, further,

that hearing on this application is unnecessary, and submit the following form of order:

ORDER.

Applicant, the Meteor Boat Company, engaged in the transportation of passengers from Long Beach and San Pedro, having applied to this Commission for permission to correct an error in its local passenger tariff No. 10, in which it published the one way and return trip from Avalon to Seal Rocks, California, at twenty-five (25) cents where it should be fifty (50) cents, and also for permission to change its party fares, as set forth in the opinion preceding this order; and it appearing to the Commission that applicant should be granted permission to correct the error referred to; and also to make the change desired in its party fares, and that a public hearing in the matter is not necessary,

It is hereby ordered that the Meteor Boat Company be and it is granted permission to correct its local passenger tariff No. 10 by changing the round trip rate from twenty-five (25) cents to fifty (50) cents for the trip from Avalon to Seal Rocks, California, and return.

It is further ordered that the Meteor Boat Company be and it is hereby authorized to change the party fares, set forth in local passenger tariff No. 10, reading as follows:

“The following reductions will be made on fares listed in Item No. 1 for regularly organized parties:

Parties of twenty or more, but less than fifty, 20 per cent off.

Parties of fifty or more, but less than one hundred, 30 per cent off.

Parties of one hundred, 50 per cent off.

The above reductions apply to trips on Marine Garden vessels only. No reductions on trips around the island, or to or from Long Beach or San Pedro.”

to the following:

“The following reduction will be made on fares listed in Item No. 1 for regularly organized parties:

Parties of thirty or more, 10 per cent off.

The above reduction applies to trips on Marine Garden vessels only. No reduction on trips around the island, or to or from Long Beach or San Pedro.”

This change in the rates of applicant to be filed and become effective in the time prescribed by the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2374.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND
TERMINAL RAILWAYS FOR AN ORDER AUTHORIZING THE ISSUE
OF A PROMISSORY NOTE OF THE FACE VALUE OF TWENTY-SEVEN
THOUSAND DOLLARS.

Application No. 1658.

Decided May 10, 1915.

Applicant, owing a balance of \$27,000.00 on a former note, applies for and is granted permission to issue its 6 per cent promissory note payable on demand, in renewal thereof.

W. H. Smith, for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

San Francisco-Oakland Terminal Railways having applied to the Railroad Commission for authority to execute a promissory note in the sum of \$27,000.00, bearing interest at the rate of 6 per cent per annum, payable to Central National Bank, or order, on demand, after date, for the purpose hereinafter specified, and a public hearing having been held on said application, and the Railroad Commission finding that the purpose for which it is desired to issue said note is not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that San Francisco-Oakland Terminal Railways be and the same is hereby authorized to issue its promissory note, payable on demand, after date, to Central National Bank of Oakland, Alameda County, California, or order, in the sum of twenty-seven thousand dollars (\$27,000.00), with interest at the rate of six (6) per cent per annum, on the following conditions and not otherwise, to wit:

1. San Francisco-Oakland Terminal Railways shall issue said promissory note at its full face value in payment of an indebtedness of \$27,000.00 remaining due to Central National Bank on promissory note of Oakland Traction Company, dated March 21, 1912, in the amount of \$65,000.00, payable to Central National Bank, or order, on demand, said sum of \$27,000.00 being the amount remaining unpaid on said note, the payment of which note was necessarily assumed by San Francisco-Oakland Terminal Railways at the time Oakland Traction Company and other corporations were consolidated into San Francisco-Oakland Terminal Railways on March 21, 1912.

2. San Francisco-Oakland Terminal Railways shall report to the Railroad Commission within ten (10) days after its issue, the fact of the issue of the promissory note herein authorized, together with the terms and conditions of the issue.

3. The authority hereby granted shall not become effective until the fee prescribed by section 57 of the Public Utilities Act has been paid.

4. The authority herein given shall apply only to such promissory note as may have been issued on or before July 1, 1915.

The foregoing order is hereby approved and ordered filed as the order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2375.

STEIGER TERRA COTTA AND POTTERY WORKS

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 628.

Decided May 10, 1915.

REPORT OF THE COMMISSION.

ORDER DENYING REHEARING.

Complainant herein having, on April 28, 1915, filed with this Commission an application for rehearing of this proceeding, and the Commission being of the opinion that there is no good reason why a rehearing should be had,

It is hereby ordered that said application for rehearing be, and the same is hereby, denied.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2376.

STEIGER TERRA COTTA AND POTTERY WORKS ET AL.

vs.

SOUTHERN PACIFIC COMPANY.

OAKLAND CHAMBER OF COMMERCE, INTERVENOR.

Case No. 591.

Decided May 10, 1915.

REPORT OF THE COMMISSION.

ORDER DENYING REHEARING.

Complainants herein having, on April 28, 1915, filed with this Commission an application for rehearing of this proceeding, and the Commission being of the opinion that there is no good reason why a rehearing should be had.

It is hereby ordered that said application for rehearing be, and the same is hereby, denied.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2377.

IN THE MATTER OF APPLICATION OF SOUTHERN PACIFIC MILLING COMPANY FOR PERMISSION TO CHARGE FIFTEEN CENTS PER TON FOR LOADING GRAIN AND GRAIN PRODUCTS ON BOARD CARS WHEN STORED IN ITS WAREHOUSES, AND TO RAISE ITS RATES FOR STORAGE OF HAY.

Application No. 1082.

Decided May 10, 1915.

Applicant, operating several warehouses for the storage of hay and grain, applies for permission to put into effect a charge of 15 cents for loading grain and grain products on cars, also to change its storage rates for hay from a monthly charge to a flat rate of \$1.25 per season and a valuation of applicant's property, together with a general review of its operations showing that the increases asked for are reasonable and should be permitted. Application granted.

C. W. Durbrow, for Applicant.

J. A. Bardin and *Fred A. Treat*, for certain protestants.

Benjamin W. Shipman, for Hueneme Wharf and Warehouse Company, Farmers Warehouse Company and Huntington Beach Warehouse Company.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This application was filed April 13, 1914, in which applicant, the Southern Pacific Milling Company, asked permission to charge 15 cents per ton for loading grain and grain products on board cars when shipped from its warehouses, and to raise the rates for storage of hay.

Applicant is a corporation engaged in the business of storing and shipping produce, buying, selling and cleaning grain and dealing in certain merchandise. It has warehouses located in the counties of Monterey, San Luis Obispo, Santa Barbara and Ventura, in the State of California. Certified copies of the articles of incorporation of applicant were filed with the application, and a financial statement of applicant was also filed, as provided for in the Commission's rules and regulations, from which statement it appears that applicant has invested in real estate, warehouse property and improvements \$508,813.59. As indicated above, however, applicant's investment is not all devoted to the warehouse business, as, in addition to its warehouse business, applicant conducts a merchandise business of buying and selling bags, twine, flour, feed, hay, grain and other merchandise, the sale of which is an accommodation to its patrons. Applicant also conducts a commission business and the business of rolling barley, cleaning grain, beans, etc.

It is extremely difficult to segregate the capital investment as between the warehouse business and the merchandise, commission and other business; and is even more difficult to allocate the labor expense and

other expenses as between these classes of business. The time of the managers and other employees of each warehouse is partly given to the warehouse business and partly to the merchandise and other business.

The present rates of applicant for storage of grain are as follows:

50 cents per ton for the first month, or fraction thereof.

25 cents per ton for the second month, or fraction thereof.

25 cents per ton for the third month, or fraction thereof.

And balance of the season to the first of June following, free.

For these rates applicant gives the following service: Weighing the grain, receiving it from the wagon, trucking it into the warehouse, piling it into piles, issuing a warehouse receipt, carrying it on storage, taking it from the piles when ordered shipped, repairing and patching sacks to put them in condition for shipment, trucking it aboard the cars, piling it in the cars, making out a shipping receipt, securing signature to the receipt and mailing it to the shipper.

Applicant claims that the rates named are noncompensatory for the service rendered, and asks that it be permitted to add to such charges an additional charge of 15 cents per ton for loading and piling the grain on board cars when it is shipped out. A service is sometimes rendered at applicant's warehouses and a charge made therefor, no mention of which appears in the schedule of rates and service filed by applicant with the Railroad Commission, which is the service of passing grain through the warehouses of applicant from wagons direct to the cars—for this service a charge of 25 cents per ton is collected by applicant, and applicant desires to continue this service and charge.

The present rates for storage of hay are as follows:

75 cents per ton for the first month, or fraction thereof.

25 cents per ton for the second month, or fraction thereof.

25 cents per ton for the third month, or fraction thereof.

And balance of the season to the first of June following, free.

The storage rates of hay include the following service: Weighing the hay, receiving it from the warehouses, piling it by means of block and tackle in the warehouses, taking it out afterward by means of block and tackle and loading it in the cars, making out the shipping receipt, securing signature to same and mailing to shipper. Applicant asks that it be permitted to change its present rates on hay to a flat charge of \$1.25 per ton for the season—to the first of June following the placing in the warehouse.

Applicant has been engaged in the warehouse business, in the territory before described, for twenty-seven years. Its charge, at first, was \$1.00 per ton for the season, such rate being afterward adjusted as named above. It now gives the following specific reasons for asking permission to advance the rates: First, the increase in the minimum

carload weight. Previous to the change in railroad equipment which has taken place in the past few years, the minimum carload was fifteen tons, which amount could be loaded into a car by one man. Under the present greater minimum two men are required in order to pile the grain high enough to load the minimum into the car, which applicant claims materially increases the cost of loading. Second, applicant refers to the well-known fact that wages of laborers have materially increased in recent years. Third, applicant shows by testimony that the rate now prayed for is in effect elsewhere and is considered by competent authority a reasonable rate, such competent authority being the Grain Trade Association of the San Francisco Chamber of Commerce, composed of men who deal in grain and are in position to judge of the reasonableness of any charge for handling that product. Such Grain Trade Association of the San Francisco Chamber of Commerce has, among others, the following rule:

“Regular warehouses shall be permitted to make a charge of **not exceeding 15 cents a ton for loading grain.**”

And, further, applicant calls attention to the fact that the rates for such regular warehouses, established by the Grain Trade Association of San Francisco Chamber of Commerce, are in excess of the rates now prayed for by applicant.

While the increased car minimum, and the greater expense, were specifically urged by applicant as justifying the rates prayed for, attention was also drawn to other increases in the cost of doing business such as increased taxes, franchise taxes, license of corporation, State liability law, etc.

At the hearing of this application a large number of the patrons of applicant's warehouses appeared by counsel to protest against the increase asked for. Counsel and the manager for the Hueneme Wharf and Warehouse Company, Sawtelle Warehouse Company, Farmers Warehouse Company, and the Huntington Beach Warehouse Company, also asked for and were granted permission to intervene in opposition to the granting of the rates asked for by applicant. Counsel for protestants first mentioned, namely, patrons of applicant's warehouses, developed by cross-examination of applicant's principal witness, Mr. Fairfax Wheelan, vice president and manager of applicant, the fact that there was formerly discrimination in the application of the rates of applicant not only as between the various warehouses but also as between patrons of the same warehouse. The records of the Railroad Commission show, however, that on August 16, 1912, an application was made by the Southern Pacific Milling Company, applicant herein, as provided by the Public Utilities Act, for permission to continue certain exceptions to its rates filed with the Railroad Commission, such excep-

tions covering the discriminations developed under cross-examination at this hearing, as above set forth. This application, No. 188, was afterward withdrawn, but during its consideration and before its withdrawal applicant was advised by the Commission that it would have to discontinue all of the exceptions which it asked permission to continue, except that of the special rate given to Treseconi & Johnson at applicant's San Lucas warehouse, which special rate was the subject of a contract in writing; and that should applicant desire to continue the special rate so given to Treseconi & Johnson it would be required to file a copy of the contract under which such special rate was given, that the Commission might consider its merits. This suggestion was accepted by applicant and all exceptions or departures from its rates filed with the Commission were discontinued except the special rate accorded Treseconi & Johnson. As to that, the record does not show that the copy of said contract was filed with the Commission, and the decision in this application will be that the special rate given to Treseconi & Johnson at the San Lucas warehouse must be discontinued, which will eliminate all of the departures from applicant's rates, as filed with this Commission.

The testimony of various witnesses was offered in behalf of protestants, patrons of applicant's warehouses, in opposition to the granting of the rates prayed for by applicant, on the ground that witnesses believed the present rates high enough, and that other warehouses, competing with applicant for the warehouse business, were charging applicant's present rates. One witness testified that he was interested in a company which was building a warehouse in Salinas and that it was his opinion that his company will be satisfied to charge the rates now being charged by applicant.

It was also developed by cross-examination that certain warehouses in the San Joaquin Valley, and one at Hollister, San Benito County, were charging the present rates of applicant, but applicant claimed that the class of such warehouses and conditions under which they do business are not comparable to the class and conditions of applicant's warehouses and business.

Counsel for other protestants, namely, the Hueneme Wharf and Warehouse Company, Farmers Warehouse Company, Sawtelle Warehouse Company and Huntington Beach Warehouse Company, stated for his clients that it was their opinion, when intervention was decided upon, this was a proceeding under which the Commission would fix rates for all warehouses; but when advised by the Commission that such was not the case and that only the rates of the Southern Pacific Milling Company were before the Commission in this application, these intervenors simply offered the testimony of the manager of these warehouses to the effect that in his judgment if the increase of 15 cents was allowed

for loading grain on cars it should be added to the first month's storage charge instead of being made a loading out or charge for putting the grain on the cars. Counsel for these protestants also made the statement that to permit a charge of 15 cents for loading the grain on the cars, as prayed for by applicant, would discriminate in favor of the man who comes to the warehouse with his wagon and takes the grain away, and for that reason he was further of the opinion that if the 15 cents was allowed it should be added to the first month's storage.

I am of the opinion that the charge of discrimination in favor of the man who comes to the warehouse with his wagon and hauls his grain away could not be sustained for the obvious reason that such a person is not given the various services for which the applicant hereby seeks authority to charge; that is, loading and piling grain in a car in such a manner that the minimum carload weight may be shipped.

In order to determine whether the present rates of applicant produce fair returns upon the investment and if not whether the rates prayed for are justified, a valuation by the engineering department of the Railroad Commission was clearly necessary, as was also a report by the auditing department of the Commission, on the operation of the various warehouses allocating, so far as possible, the capital investment and expenses as between the warehouse business and the merchandise, commission and other business. Such report from these departments involved a large amount of work occupying many months because of the large number of warehouses owned and operated by applicant. These reports have now been filed and a decision upon the application may be rendered.

As before stated, it is extremely difficult to segregate the expenses as between the warehouse business and the merchandise, commission and other business of applicant. The segregation of capital investment and expenses as between the different classes of business conducted by applicant, furnished by it and also reported upon by the auditor of the Commission, both bear the earmarks of being honest efforts to solve this difficult problem, and do not differ greatly. The testimony as to the increase of expenses in the past few years was not denied and probably could not be successfully controverted, neither was there any attempt, on the part of protestants, to controvert the testimony of witnesses for applicant that the warehouse business of applicant has fallen off in the past few years. I have also placed considerable weight on the value given by the Commission's engineering department to such of the applicant's property as is used for warehouse purposes. Applicant's statement of investment in plant on May 31, 1913, shows a sum invested in all property, including property not devoted to warehouse business, of \$508,813.59. The engineering department has made a segregation of such property as is clearly used for warehouse purposes, and finds

that applicant's book cost for such property on May 31, 1913, amounted to approximately \$265,000.00. The reproduction cost new of this same property, as of January 1, 1915, is estimated by the engineering department of the Commission at \$344,026.45, and the reproduction cost less depreciation at \$274,357.48; and these amounts were approximately the same on May 31, 1913, the date of the hearing at which applicant's estimates were offered.

It would appear, therefore, that applicant carries its physical property on its books at a very conservative value. This is the more apparent as much care was used by the engineering and auditing departments of the Commission to eliminate from consideration, for the purposes of this case, all non-operative items, and all property not clearly useful for warehouse purposes. There was also deducted the value of a warehouse in San Miguel, which burned down and has not been rebuilt, but which was included in applicant's estimates of value.

The average yearly gross earnings of applicant on its warehouse business for the four years prior to May 31, 1913, amounted to \$18,975.59 on grain warehouse business, and to \$2,840.37 on hay warehouse business, or a total of \$21,815.96. From this sum is to be deducted \$15,183.52 for overhead expenses and depreciation, and it may be well to state here that the depreciation allowance made by applicant is a very moderate one. There is left, then, average yearly net earnings, for the period mentioned, of \$6,632.44. Such earnings are equal to a return of only one and nine-tenths per cent (1.9%) on the reproduction cost, or two and one-half per cent (2½%) on the book cost, as found by the Commission's engineering department—a return certainly unattractive from any point of view.

If we disregard our engineering department's figures as a measure of value, and use, instead, the segregated book cost of only \$265,000.00 as the sum on which the applicant may claim a return, the return from the earnings shown would still equal only two and one-half per cent (2½%) of the book cost. I am satisfied, however, that the book cost is not the true measure of the value of applicant's physical property, and that the engineering department's figures approach the facts more closely.

In case the petition of applicant is granted and the increased rates allowed, and assuming further that the amount of business handled will remain equal to the average for the last four years, the average net earnings on the grain and hay warehouse business, under the new rate, will be \$15,542.63, as against \$6,632.44 under the old rate. The increased earnings will result in paying four and one-half per cent (4½%) on the reproduction cost new as fixed by the Commission's

engineering department, or five and nine-tenths per cent (5.9%) on the segregated book cost.

I am aware that a fair return on the investment or on the value of the property devoted to public use is not the only measure of public utility rates, and that these rates must not exceed a fair return for services rendered, irrespective of the rate of return. In the case under consideration, I am of the opinion that the rates in themselves, as proposed by applicant and as compared with rates charged by similar utilities for similar services are not unreasonable, and it is for this reason that the questions of investment and fair value of the property devoted to public service, and a fair return thereon, appear to me of much moment.

Due consideration has been given to the contention of protestants that if the advance prayed for is permitted it should be added to the first month's storage, but, in my judgment, no sufficient justification has been shown that the advance, if given, should be so charged, nor do I believe the contention that a charge of 15 cents for loading grain on cars would be discrimination against the man who comes to the warehouse with his wagon and takes the grain away.

I find as a fact that the rates prayed for by applicant are just and reasonable, and recommend the following form of order:

ORDER.

The Southern Pacific Milling Company, a corporation engaged in the warehouse business in the counties of Monterey, San Luis Obispo, Santa Barbara and Ventura, State of California, having applied to this Commission for permission to charge 15 cents per ton for loading grain and grain products, and to increase its rates for storage of hay; and a public hearing having been held and thereafter a valuation of applicant's physical property made by the engineering department of the Commission, and a segregation of the property devoted to warehouse business from applicant's property devoted to other business; and a careful and exhaustive report having been made to the Commission by the auditing department on the allocation of the expenses as between applicant's warehouse business and other business; and the Commission having found as a fact that applicant should be permitted to make the charge of 15 cents per ton for loading grain and grain products, and to increase its rates for storage of hay as prayed for,

It is hereby ordered that applicant be and it is hereby permitted to make a charge of 15 cents per ton for loading grain and grain products on board cars when stored in its warehouses, and to change its present rates for storage of hay from

- 75 cents per ton for the first month, or fraction thereof.
- 25 cents per ton for the second month, or fraction thereof.
- 25 cents per ton for the third month, or fraction thereof.

And balance of the season to the first of June following, free.

to a flat charge of \$1.25 per ton for the season to the first of June following the placing in the warehouse.

It is further ordered that applicant be permitted to continue the charge which it now makes for the service of passing grain through its warehouses from wagons direct to the cars, to wit: charge of 25 cents per ton.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2378.

BARCLAY McCOWAN ET AL.

vs.

KERN MUTUAL TELEPHONE COMPANY.

Case No. 625.

Decided May 10, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject-matter of the complaint in this proceeding being the same as that in Case No. 745—*J. W. Jameson et al. vs. Kern Mutual Telephone Company*—which case was decided by the Commission on May 10, 1915, and inasmuch as the decision in that case entirely disposes of the issues in the present proceeding,

It is hereby ordered that the complaint in this proceeding be, and the same is hereby, dismissed, without prejudice.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2379.

J. W. JAMESON ET AL.

vs.

KERN MUTUAL TELEPHONE COMPANY.

Case No. 745.

Decided May 10, 1915.

Complainant attacks as unjust and exorbitant, the rates of defendant company operating telephone exchanges in certain cities in Kern County, and defendant submitting a revised schedule of rates effecting a total yearly reduction of \$1,650.00, which schedule is satisfactory to complainants; complaint dismissed without prejudice.

Barclay McCowan, for Complainants.

C. L. Claflin and *E. J. Emmons*, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is a complaint against the rates of Kern Mutual Telephone Company. This company has exchanges in Taft, Maricopa, Fellows and McKittrick, in Kern County, California. At the hearing in this case the attorney for the complainants introduced schedules of rates for telephone service in other localities of this State. These schedules are lower than those of Kern Mutual Telephone Company. Other than these comparative schedules introduced, no evidence of any kind to show that the rates complained of are unreasonably high or excessive.

At the hearing the defendant company voluntarily offered to put into effect through all the exchanges served by it the following reduction in the rates:

| Number of patrons | Class of service | Present rates | New rates | Amount reduction |
|--------------------------------|-------------------------------------|---------------|-----------|------------------|
| 64 | One-party business | \$10 00 | \$9 50 | \$32 00 |
| 16 | Two-party business, desk set..... | 8 00 | 7 50 | 8 00 |
| 35 | Two-party business, wall set..... | 7 50 | 7 00 | 17 50 |
| 75 | Four-party business, desk set..... | 6 00 | 5 50 | 37 50 |
| 2 | One-party residence | 7 50 | 7 00 | 1 00 |
| 3 | Two-party residence, desk set..... | 5 50 | 5 00 | 1 50 |
| 8 | Two-party residence, wall set..... | 5 00 | 4 50 | 4 00 |
| 2 | Four-party residence, desk set..... | 4 50 | 3 50 | 2 00 |
| 68 | Four-party residence, wall set..... | 3 50 | 3 00 | 34 00 |
| Total reduction per month..... | | | | \$137 50 |
| Total reduction per year..... | | | | 1,650 00 |

Complainants agreed to accept these reductions in satisfaction of the complaint, and asked that the complaint be dismissed without prejudice. I, accordingly, submit herewith the following form of order:

ORDER.

This case having come on regularly for hearing and the matter being ready for decision,

It is hereby ordered that the complaint in this proceeding be, and the same is hereby dismissed without prejudice, provided defendant, Kern Mutual Telephone Company shall, on or before May 31, 1915, file with this Commission the following schedule of rates to be put into effect in all the exchanges operated by the defendant company, to wit:

| | Per month |
|--|-----------|
| One-party business telephones..... | \$9 50 |
| Two-party business telephones, desk set..... | 7 50 |
| Two-party business telephones, wall set..... | 7 00 |
| Four-party business telephones, desk set..... | 5 50 |
| One-party residence telephones | 7 00 |
| Two-party residence telephones, desk set..... | 5 00 |
| Two-party residence telephones, wall set..... | 4 50 |
| Four-party residence telephones, desk set..... | 3 50 |
| Four-party residence telephones, wall set..... | 3 00 |

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2380.

IN THE MATTER OF THE APPLICATION OF WALNUT GROVE WATER WORKS FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 1469.

Decided May 10, 1915.

Applicant granted a certificate of public convenience and necessity authorizing the construction and operation of a water distributing system in a certain portion of Los Angeles County.

Arthur E. Dennis, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

The application in this matter relates that Sidney Smith is conducting a water utility business under the fictitious firm name of Walnut Grove Water Works; that there is no company or individual supplying water in the territory covered in the franchise granted to the applicant by the county of Los Angeles, and that public convenience and necessity require water to be furnished by the applicant.

There were presented with the application copies of the notice that such franchise had been granted the applicant and evidence of his registry under the stated firm name with the county clerk of Los Angeles County.

It was developed by investigation and during the progress of a public hearing conducted in this matter that Sidney Smith had entered into agreement with Philip L. Wilson, M. M. Colvin and C. J. Gardner, whereby there was granted to the applicant rights of way, plant sites and certain physical properties which, together, constitute the utility property. This property, it is stated, represents an investment of \$5,313.60.

It is stated in the application that applicant intends to finance and extend the system, but the means whereby this is to be accomplished are not involved in this proceeding.

The rates proposed to be charged by applicant are as follows:

| | |
|---|------------------|
| ¾-inch or 1-inch meter..... | \$1 50 per month |
| 1-inch meter | 2 00 per month |
| 1½-inch meter | 2 50 per month |
| 2-inch meter | 3 00 per month |
| First 600 cubic feet..... | 1 50 per month |
| 20c per 100 cubic feet all over 600 cubic feet. | |

For irrigation, \$1.00 per hour for the full capacity of the plant.

The rate for irrigation is that established by the agreement whereby the applicant obtained possession of the property and which is referred to above.

The testimony indicates that returns, provided the use for irrigation continues as it has during the past season, will be sufficient merely to cover the actual cost of maintenance and operation and will not provide interest on the investment.

I submit the following form of order:

ORDER.

Walnut Grove Water Works having applied for a certificate declaring that public convenience and necessity require the exercise by applicant of the rights and privileges granted by the board of supervisors of Los Angeles County in Ordinance No. 360, adopted on June 22, 1914, in the portion of Los Angeles County described in that ordinance, in the matter of supplying water for domestic and irrigation purposes, and a public hearing having been conducted and the Commission being fully apprised in the premises,

It is hereby declared by the Railroad Commission of the State of California that public convenience and necessity require the exercise by Walnut Grove Water Works of the rights and privileges granted to applicant by the board of supervisors of Los Angeles County in Ordinance No. 360, adopted June 22, 1914.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2381.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA
EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE
AND SELL CERTAIN DEBENTURES AND TO ISSUE STOCK.

Application No. 1560.

Decided May 11, 1915.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

This Commission, in its order heretofore rendered on March 11, 1915, in the above entitled application, having authorized Southern California Edison Company to issue and sell two million five hundred thousand dollars (\$2,500,000) face value of its five-year six per cent debentures and twenty-seven thousand five hundred (27,500) shares of its common capital stock, having a par value of one hundred dollars (\$100) per

share, on the condition, among others, that the applicant should present to this Commission, for its approval, a copy of the proposed agreement with Los Angeles Trust and Savings Bank, trustee, for the issue of the above mentioned debentures;

And applicant now having presented to this Commission a proposed form of agreement with Los Angeles Trust and Savings Bank, trustee, marked Exhibit "C," and it appearing to the Commission that said agreement is in proper form and should be approved,

It is hereby ordered that the agreement submitted by Southern California Edison Company in connection with the application herein and marked Exhibit "C" be, and it is hereby, approved.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of May, 1915.

DECISION No. 2382.

CHAMBER OF COMMERCE OF THE CITY OF SANTA CRUZ

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 692.

Decided May 11, 1915.

Complainant attacks the passenger rates of defendant company between Los Gatos and Santa Cruz, San Joaquin Valley points and Santa Cruz and San Francisco and Santa Cruz, alleging by comparison with points at equal mileage, that such rates are unjust and discriminatory and the investigation establishing the fact that the points of comparison are not similarly situated, also that defendant's right of way to Santa Cruz is through a mountainous country with considerable curvature and many tunnels with a corresponding increase in upkeep cost, that the present rates can not be considered excessive or discriminatory.

Held, With the exception of defendant's excursion rate between San Jose and Santa Cruz, which rate is found to be discriminatory, complaint dismissed without prejudice. Defendant directed to establish, within twenty days, a round trip rate of \$1.40, good Sundays only, between San Jose and Santa Cruz.

Ralph H. Smith, for Complainant.

C. W. Durbrow, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

The complainant herein is a corporation duly organized and existing under the laws of the State of California for the purpose of advancing the welfare of the city of Santa Cruz. The complaint, filed October 5,

1914, alleges that defendant, Southern Pacific Company, charges excessive and unreasonable passenger fares between certain specified points. The allegations are:

(1) That the rate of $4\frac{1}{4}$ cents per mile between Los Gatos and Santa Cruz is excessive as compared with the rate of 3 cents per mile between Bakersfield and points in Southern California;

(2) That certain one-way and round-trip fares (as set forth in Schedule "A" attached to the complaint) from various points in the San Joaquin Valley to Santa Cruz are greater than the one-way and round-trip fares between the same points and Long Beach, although the mileage to Santa Cruz is less;

(3) That the round-trip summer excursion ticket of \$4.00 sold during the period May to October each year from San Francisco to Santa Cruz is excessive as compared with the fare of \$3.50 for like transportation from San Francisco to Boulder Creek.

At the hearing the complaint was amended so as to include other one-way and round-trip fares from San Francisco and San Joaquin Valley points to Santa Cruz.

The defendant in its answer, filed December 14, 1914, denies that any of the passenger fares are excessive, unjust or discriminatory as against Santa Cruz, and sets forth the fact that the excursion fares complained of were established for the summer season of the year 1914, and are no longer in effect.

A tariff covering summer excursion fares is published each year independent of the previous season; and a witness for defendant testified that the summer excursion fares for the season of 1915, effective April 29, 1915, in Tariff No. 33, C.R.C. 2098, were constructed on a uniform basis of 20 per cent less than double the one-way fare for tickets having a three-months' limit but not to exceed October 31st, sold any day between April 29th and October 25th, and $33\frac{1}{3}$ per cent less than double one-way fare for tickets with a limit of fifteen days, sold on Saturdays only between May 1st and September 25th; and that there were no discriminations. While, no doubt, discriminations existed in certain summer excursion fares during the season of 1914, as alleged by complainant, those fares expired November 25, 1914.

Therefore, it will not be necessary to analyze nor consider that part of Schedule "A" dealing with the alleged discriminations between points in the San Joaquin Valley and Santa Cruz, nor to make any further reference to the excursion fares from San Francisco to Santa Cruz and Boulder Creek.

The complainant introduced testimony and a number of exhibits tending to show principally that the one-way fare between San Francisco and Santa Cruz should not exceed \$1.90 and that round-trip fares should be based on this rate and reduced accordingly. The one-way

fare of \$1.90 is arrived at by arbitrarily using as a factor a rate of \$1.25, San Francisco to Pollard road, and adding to this another arbitrary of 65 cents, Pollard road to Santa Cruz. It is contended by complainant that the fare from San Francisco to Pollard road should be the same as the fare from San Francisco to San Jose—this is on the ground of equal mileage—the distance between San Francisco and Pollard road via Mayfield being 46.9 miles, exactly the same as from San Francisco to San Jose via the main line; the one-way fare from San Francisco to Pollard road is \$1.40, while to San Jose it is \$1.25. I do not agree with this contention, inasmuch as San Jose is a city of some 30,000 population, located on the main line of the Southern Pacific, furnishes a heavy passenger traffic handled in part on through trains, and consequently may, without discrimination, enjoy a lower fare than Pollard road, a flag station on the Santa Cruz branch via Mayfield. The other factor of the proposed fare, viz, 65 cents from Pollard road to Santa Cruz, is secured by using rate of 2.2 cents per mile for the 28.6 miles, this being the rate per mile in effect San Jose to Monterey. The one-way fare San Jose to Monterey of \$1.75 applies either via Santa Cruz, 79.4 miles, or via Gilroy, 75.1 miles, the rate per mile via Santa Cruz being 2.2 cents per mile and via Gilroy 2.3 cents per mile.

It might be well to go into the history of the low rates from San Francisco and San Jose to Monterey, as complainant uses the rate per mile San Jose to Monterey in arriving at a fare from San Francisco to Santa Cruz. Testimony on this point is to the effect that originally the line through Newark, San Jose and Los Gatos was owned by the South Pacific Coast Railway Company, and that company, having the direct route, a distance of approximately 76 miles, from San Francisco to Santa Cruz, first established a fare of \$3.00 between these points and a fare of \$1.75 between San Jose and Santa Cruz, a distance of 36.3 miles. The Southern Pacific Company, whose mileage was 45 miles greater from Third and Townsend streets, San Francisco, via San Jose, Gilroy and Pajaro, met the fares of its short line competitor to Santa Cruz and, in addition, in an effort to hold the Monterey business, published the same fares from San Francisco and San Jose to Monterey, the distance via its line being practically the same San Francisco and San Jose to Monterey as to Santa Cruz; in other words, the company having the longer and more circuitous route met the fares established by its short line competitor. Shortly after the South Pacific Coast Railway Company commenced operation, it reduced the San Francisco-Santa Cruz fare to \$2.80 and the San Jose-Santa Cruz fare to \$1.55, which reductions were met by the Southern Pacific Company from San Francisco and San Jose to Santa Cruz, but no further reduc-

tions were made in the fares to Monterey. It will thus be seen that the very low fares in effect from San Francisco and San Jose to Monterey were forced by competition and are not, by comparison, normal. When the Southern Pacific Company purchased the property of the South Pacific Coast Railway Company it did not increase the fares to Monterey and, therefore, that community still enjoys the low rates established when the two companies were in competition.

The line from Los Gatos to Santa Cruz is through a very mountainous country, the gradient varying from level to a maximum of 2.2 per cent per mile, and, in a distance of 25 miles, has 13 miles of curved track, many trestles, and six tunnels with a total length of 14,387 feet. In support of the claim of costly maintenance, a civil engineer for the Southern Pacific Company presented figures to show that the sum of \$249,547.00 had been expended in reconstruction work between Wrights and Felton from September, 1907, to April, 1909, also that large amounts had been expended at other points. These figures may include some of the costs of rebuilding following the earthquake of 1906; however, they are illustrative of the expense entailed in keeping this stretch of track in operative condition. The annual reports of the South Pacific Coast Railway Company, which, because of an agreement entered into with the original owners, are kept separate and distinct from the accounts of the Southern Pacific Company, show deficits of \$176,959.67 and \$202,191.90 for the fiscal years of 1913 and 1914, respectively; and while it may be true that these deficits would not be so large were the South Pacific Coast Railway operated as an independent line, I am still impressed with the fact that the property standing alone would not show any extravagant earnings.

Regarding the complainant's contention that the rate of 4 $\frac{3}{4}$ cents per mile between Los Gatos and Santa Cruz is excessive as compared with the rate of 3 cents per mile between Bakersfield and points in Southern California, I am of the opinion that conditions are entirely dissimilar, for the reason that traffic between Bakersfield and Los Angeles is handled on through main line trains, while the Santa Cruz traffic is carried on locals; further, the Los Gatos-Santa Cruz travel is only heavy during a few months in the summer. Therefore, I recommend that no change be made in this rate.

It is a well established fact that the reasonableness *per se* of a through rate should be independently determined, considered in its entirety, and should not be compared with a rate built up of intermediate rates or fragments of rates from intermediate points to more distant points, which rates may be less than normal because of peculiar conditions. Branch line rates are usually higher than main line rates, and although some trains are operated from San Francisco to Monterey the line is

nevertheless considered a branch of the Southern Pacific and is so treated for operating purposes. Many of the fares for main line traffic in California are computed at the rate of 3 cents per mile but this rate does not prevail on branch lines and I therefore believe that it would not be proper at this time, upon the showing made in this case, to make any reductions in the one-way fares to Santa Cruz. These fares should be held in abeyance until some future date when the Commission may decide on its own initiative to enter into an investigation of all passenger fares within the State. After considering all of the facts I do not find that complainant has proved the present one-way fare of \$2.65 San Francisco to Santa Cruz to be excessive, neither do the exhibits presented in evidence convince me that other one-way fares called into question are unreasonably high.

With reference to excursion fares, I believe that Santa Cruz should have a round-trip, Sunday only, ticket from San Jose based on the one-way fare, this being the basis of the Sunday round-trip in effect from San Jose to Monterey, and I, therefore, recommend that the Southern Pacific Company be required to publish a round-trip fare, good on Sundays only, from San Jose to Santa Cruz, of \$1.40, and that the complaint, in so far as it relates to other fares, be dismissed.

I submit herewith the following form of order:

ORDER.

The chamber of commerce of the city of Santa Cruz having complained that certain one-way and round-trip fares of the Southern Pacific Company for the transportation of passengers between Santa Cruz and various points within the State of California are excessive and discriminatory, and a regular hearing having been held, and the Commission being fully apprised in the premises and basing its conclusions upon findings of fact in the opinion which precedes this order,

It is hereby ordered that the Southern Pacific Company publish and file with this Commission, within twenty days from the date hereof, a round-trip fare of \$1.40 to be sold and used on Sunday only from San Jose to Santa Cruz.

It is further ordered that that portion of the complaint dealing with other fares be and the same is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of May, 1915.

DECISION No. 2383.

IN THE MATTER OF THE APPLICATION OF MILL VALLEY AND MT. TAMALPAIS SCENIC RAILWAY TO SELL, AND OF MT. TAMALPAIS AND MUIR WOODS RAILWAY TO PURCHASE, THE ENTIRE PROPERTY OF MILL VALLEY AND MT. TAMALPAIS SCENIC RAILWAY, AND FOR ADDITIONAL TIME TO ISSUE THREE THOUSAND SHARES GRANTED UNDER DECISION APRIL 12, 1913, AND FOR PERMISSION TO ISSUE ONE HUNDRED EIGHTY ADDITIONAL SHARES OF STOCK.

Application No. 437.

Decided May 10, 1915.

Applicant applies for and is granted an extension of time within which to issue 3,000 shares of its capital stock heretofore authorized by this Commission, and is also granted permission to issue an additional 180 shares of the par value of \$100.00 per share, such stock to be sold at par, proceeds to be used to discharge obligations incurred in extensions and improvements.

James Lanagan, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

SUPPLEMENTAL OPINION.

On April 12, 1913, after a public hearing and thorough investigation, this Commission authorized Mt. Tamalpais and Muir Woods Railway to issue 3,000 shares of its capital stock upon certain conditions specified in said order. Mt. Tamalpais and Muir Woods Railway has now filed a supplemental application asking this Commission to extend the time within which applicant may issue the 3,000 shares of its stock heretofore authorized, to and including May 31, 1915, and also to authorize applicant to issue 180 additional shares of stock, these shares to be issued at par.

The reasons for applicant making these requests, at this time, are as follows:

Without knowledge of the requirements of the law as to this Commission's permission being necessary to issuance of stock, applicant authorized the issuance of 3,000 shares, but the same had not been signed by the president and secretary, nor delivered, when applicant learned that the permission of the Commission was necessary, and applied for such permission, which it received under the Commission's order of April 12, 1913. Again applicant was in error in understanding that the order of the Commission validated the illegal issue of stock, whereas it was incumbent upon applicant to cancel said illegal issue of stock and legally issue the stock under the permission of the Commission granted by the order above referred to. Applicant has canceled the stock illegally issued but has not yet issued the 3,000 shares, permission to issue which was granted by the Commission, and asks that the time within which to issue said stock be extended to May 15, 1915.

inclusive. By amendment at the time the application was heard, applicant requests that this time be extended to May 31, 1915.

I recommend that that part of the application be granted.

As to the request of applicant to issue 180 shares, the following explanation is offered. I quote from the application:

"Your applicant further represents that in order to comply with the requirements of the Civil Code of the State of California regarding the subscription and capital stock of a corporation organized for the purpose of operating a railroad and a telephone and telegraph system, it secured subscriptions for two hundred sixty-five (265) shares of stock of the par value of one hundred dollars (\$100.00) each; that of the subscriptions so secured, the sum due for one hundred eighty (180) shares of the stock so subscribed at par was and is available, and that said sum has already been expended by your applicant in permanent improvements, to wit, the extension of the Muir Woods branch, and the reconstruction of the Muir Inn, as will be seen from Exhibit 'A' attached hereto, and made a part of this application."

A public hearing was held on this application on May 8, 1915, at ten o'clock a.m., and it was stipulated that the evidence submitted in the former hearing, upon which the Commission's order of April 12, 1913, was based, should be considered in evidence in this application. The testimony as to the financial condition of applicant therein set forth, to which reference is hereby made, justifies the Commission in granting permission to applicant to issue the 180 additional shares of stock now prayed for.

The testimony in this hearing shows that the money received for the 180 shares of stock, permission to issue which is now prayed for, was expended in the extension of the Muir Woods branch and the reconstruction of the Muir Inn.

I recommend the following form of supplemental order:

SUPPLEMENTAL ORDER.

Mt. Tamalpais and Muir Woods Railway, having filed an application with this Commission asking for an extension of time in which to issue 3,000 shares of its stock heretofore authorized by this Commission, to wit, on April 12, 1913, to May 31, 1915, and to issue 180 additional shares of stock for the reasons set forth in the opinion preceding this order,

It is hereby ordered that the time within which applicant, the Mt. Tamalpais and Muir Woods Railway, may issue stock, in accordance with this Commission's order heretofore made, to wit, on April 12, 1913, be and the same is hereby extended to and including the 31st day of May, 1915.

It is further ordered that applicant, the Mt. Tamalpais and Muir Woods Railway, be and it is hereby authorized to issue 180 shares of its

capital stock of the par value of one hundred (\$100.00) dollars per share upon the following conditions, and not otherwise, to wit:

(1) The stock shall be issued so as to net applicant the par value thereof.

(2) The proceeds from the issue of said stock shall be used only for the purpose of discharging the applicant's obligations incurred in the extension of the Muir Woods branch and the reconstruction of the Muir Inn.

(3) The authority to issue these one hundred eighty shares of stock shall apply only to stock issued on or before June 30, 1915.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of May, 1915.

DECISION No. 2384.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE
VALUE OF THE PROPERTY OF THE SAN DIEGO ELECTRIC
RAILWAY COMPANY.

Case No. 754.

Decided May 12, 1915.

Proceeding on the Commission's own initiative to ascertain the various elements entering into the value of respondent's property. After a general review of respondent's history, financial and physical condition the following findings are determined upon:

Findings of fact: No data being available, no findings were made with regard to original cost; that the reproduction cost of the operative physical property of respondent as of June 30, 1914, is the sum of \$4,736,148.70; that the present value of the operative physical property of respondent as of June 30, 1914, is the sum of \$4,421,159.76.

R. G. Dilworth, for San Diego Electric Railway Company.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This proceeding was brought on the Commission's own initiative for the purpose of preparing findings on certain of the elements entering into the value of the property of the San Diego Electric Railway Company.

For the general procedure in these valuation cases, and for a general description of the work performed by the Commission's engineering department in connection with them, reference is hereby made to the Commission's opinion and findings in Case No. 206 and Case No. 210, the former being the matter of ascertaining the value of the property of

the Stockton Terminal and Eastern Railroad Company and the latter being the matter of ascertaining the value of the property of the Tonopah and Tidewater Railroad Company. As was done in those two cases, I shall also here confine myself to matters of fact, and shall not make a finding on the ultimate question of the value of the property irrespective of the purpose for which that value is to be used. Before proceeding further I shall define certain terms to be used herein:

The term "original cost," as used in this opinion, means the original book cost, and is defined as the actual expenditures chargeable to capital account, in accordance with the Interstate Commerce Commission's classification, in cash or its equivalent in terms of cash, made by the carrier for its operative property in the State of California, as of the date of the valuation.

The term "reproduction cost," as used in this opinion, means the estimated cost in cash of acquiring the operative right of way and other operative real estate, and of reproducing, in the condition in which it was acquired, the other physical property of the carrier in the State of California, as of the date of valuation, to which are added overhead expenditures for engineering, law, interest and similar items.

The term "reproduction cost less depreciation," as used in this opinion, means the reproduction cost less the diminution in the value of the physical elements of the property, due to use, age, obsolescence, inadequacy or other causes, this diminution being called depreciation, plus the increase in the value of the physical elements of the property, due to age or other causes, this increase being called appreciation.

On June 29, 1914, the San Diego Electric Railway Company filed an application with the Commission, requesting the Commission's order authorizing the issue of bonds. The company, with this application, filed an approximate estimate of the cost to reproduce its property and requested permission to substitute for this estimate a more complete estimate which was being made by its engineering department on the Commission's standard valuation forms. This completed estimate was filed with the Commission on September 12, 1914. The company subsequently filed a revised final summary sheet to supersede the final summary sheet which was attached to and made a part of this appraisal filed on September 12th, and this revised final summary sheet, showing the totals of the various accounts in accordance with the Interstate Commerce Commission classification, is attached to this opinion and marked Exhibit "A."

On July 2, 1914, the Commission's engineering department was instructed to make an independent inventory and appraisal of the property of the San Diego Electric Railway Company. Although the immediate use to be made of the appraisal was to check the value of the property which was to secure the proposed bond issue, the department

compiled it in such shape that it could be used in connection with the Commission's general appraisal of the property of all carriers within the State. The engineering department's appraisal of June 30, 1914, was transmitted to the Commission on September 25, 1914, and a copy was sent to the San Diego Electric Railway Company. On January 13, 1915, after the hearing on the bond application, the Commission instituted an investigation into the value of the property of the San Diego Electric Railway Company, as a separate and independent proceeding, and it was given Case No. 754. The engineers of the railway company checked over the appraisal submitted to them by the Commission's engineering department and made further investigation into the various matters in which they did not agree with the findings of the Commission's engineers. They prepared charts showing in detail the ages of the various structures and facilities, and presented the same to the engineering department. After a careful consideration of the contentions of the railway company's engineers, and an examination into the data submitted, the Commission's engineers felt justified in making several changes in their original estimates and their revised findings were submitted to the Commission in a supplemental report, dated January 7, 1915, the summary sheet of which is attached to this opinion, as Exhibit "B." A copy of this revised report was sent to the company. Thereafter, on February 20, 1915, a hearing was held on this proceeding in San Diego, at which time the differences which still existed between the engineering departments of the company and the Commission were fully developed. The company's chief engineer, Andrew Ervast, presented the company's objections to the revised report of the Commission's engineers, and these objections will hereinafter be considered in detail. A revised final summary sheet, showing the Commission's findings, is attached hereto and marked Exhibit "C."

As is usual in these valuation proceedings, the following matters will be taken up in order:

- 1—Organization, construction and operation.
- 2—Stocks and bonds.
- 3—Revenues and expenses.
- 4—Original cost, as defined.
- 5—Reproduction cost, as defined.
- 6—Reproduction cost, less depreciation, as defined.

(1) Organization, Construction and Operation.

San Diego Electric Railway Company was incorporated under the laws of California, on November 30, 1891, by the Spreckels interests, to take over the property of the San Diego Street Car Company, which had been purchased by those interests at a foreclosure sale. The property thus purchased was a consolidation of several horse-car lines.

Immediately upon its acquisition by the Spreckels interests, the line was electrified, and electric operation was started on September 22, 1892. In 1898 the San Diego Electric Railway Company bought the property of the Citizens' Traction Company for a cash consideration of \$22,759.11. On July 1, 1908, the company purchased the electric division of the Coronado Railroad Company, paying therefor \$100,000.00 of the capital stock of the San Diego Electric Railway Company. On May 28, 1909, the South Park and East Side Railway Company's property was acquired for \$96,700.00, and at the present time the company owns all of the electric lines in the city of San Diego except a few lines belonging to the San Diego and Los Angeles Beach Railway Company. It also owns all the street car mileage in Coronado, as well as East San Diego, and some track in San Diego County not within the incorporated limits of any city.

The lines of the company are all standard gauge. The operation is entirely street railway operation, and all of the track operated by the company is owned by it with the exception of a few connecting curves, crossovers and crossings, which are owned jointly with other roads. The total mileage of the system is 65.35 equivalent single track miles, 22.27 miles of which are double track and 16.25 miles single track. The single track mileage includes all single track lines, sidings, car-barn tracks, turnouts and connecting curves.

The franchise under which the company operates in the city of San Diego expires September 1, 1952, and is subject to change, modification or revocation by a majority vote of the electors at any election.

(2) Stocks and Bonds.

San Diego Electric Railway Company has a total authorized capital stock, all common, of 50,000 shares, with a total par value of \$5,000,000.00, all of which is outstanding. The annual report of the company for the year ending June 30, 1914, shows that \$1,250,000.00 has been paid on this stock, with the balance unpaid. During the last six years dividends have been paid on the stock reported as fully paid, as follows:

In 1909, 4 per cent, or \$50,000.00; in 1910, 4 per cent, or \$50,000.00; in 1911, 6 per cent, or \$75,000.00; in 1912, 6 per cent, or \$75,000.00; in 1913, 6 per cent, or \$75,000.00; in 1914, 8 per cent, or \$100,000.00.

The funded debt is in the form of bonds of the face value of \$1,000.00 each, bearing 5 per cent interest, payable semiannually. The company has an authorized issue of \$5,000,000.00, of which \$1,625,000.00 was outstanding on June 30, 1914. The bonds are secured by a deed of trust to the Union Trust Company of San Francisco, and they mature January 2, 1934.

(3) Revenues and Expenses.

The following statement of the revenues and expenses of this company for the year ending June 30, 1914, are taken from the company's annual report, on file with the Commission:

Revenue From Transportation.

| | |
|--|--------------|
| Passenger revenue | \$964,931 46 |
| Parlor, chair and special car revenue..... | 84 00 |
| Mail revenue | 3 68* |
| Express revenue | 36 55 |
| Miscellaneous revenue | 3,083 60 |
| Total revenue from transportation..... | \$968,131 93 |

Revenue From Operations Other Than Transportation.

| | |
|---|------------|
| Station and car privileges..... | \$2,050 15 |
| Rent of tracks and terminals..... | 3,365 13 |
| Rent of equipment..... | 136 50 |
| Rent of buildings and other property..... | 1,994 81 |
| Power | 33,170 31 |
| Miscellaneous | 14,983 02 |
| Total revenue from operations other than transportation | 55,699 92 |

Total operating revenue.....\$1,023,831 85

Operating Expenses.

| | |
|---------------------------------|--------------|
| Way and structures..... | \$149,615 66 |
| Equipment | 105,687 18 |
| Traffic | 24,721 08 |
| Conducting transportation | 351,046 88 |
| General and miscellaneous..... | 98,255 44 |
| Total operating expenses..... | 729,326 24 |

| | |
|---|--------------|
| Net operating revenue..... | \$294,505 61 |
| Ratio of operating expenses to operating revenue..... | 71.23% |
| Miscellaneous income | 334 67 |

Gross income, less operating expenses.....\$294,840 28

Deductions From Income.

| | |
|------------------------|--------------|
| Taxes | \$61,808 28 |
| Interest | 100,974 12 |
| Other deductions | 2,089 02 |
| Total deductions | 164,871 42 |
| Net income | \$129,968 86 |

Disposition of Net Income.

| | |
|---|--------------|
| Dividends, 8 per cent on \$1,250,000.00 common stock..... | \$100,000 00 |
| Surplus for year..... | \$29,968 86 |
| Surplus at beginning of year..... | 312,791 83 |
| Surplus June 30, 1914 | \$342,760 69 |

*Less.

Profit or Loss Adjustments During Year.

| | | |
|--|--------------|------------------|
| Profit (sale of real estate, checks cancelled, amortization accrued and discontinued)----- | \$40,645 25 | |
| Loss (renewals and replacements, equipment retired, reduction in value of cars, etc.)----- | 146,580 22 | |
| | | <hr/> 105,934 97 |
| Surplus at close of year----- | \$236,825 72 | |

(4) Original Cost.

The original cost of the property of this company, as the term "original cost" is herein defined, was not secured by the Commission's engineers and was not reported by the company. As I have already stated, most of the company's property was secured from other companies at various times and for various considerations other than cash. It would have necessitated so many assumptions to reduce these transactions to a cash basis that the results which would then have been secured would have been of but little value as representing the actual original cost of the property. Accordingly, I can make no findings in regard to original cost.

(5) Reproduction Cost.

The railway company, at the hearing, entered its objections to certain items in the revised valuation of the Commission's engineers under the heading of reproduction cost. There are also certain items in this connection which, although not brought out at the hearing, a further analysis of the engineering department's report convinces me should be commented upon. I shall now consider these matters seriatim.

1. Right of Way and Other Lands.

For estimating interest during construction, a construction period of one year was allowed by the engineering department for the entire property, except the power plant building, on which a two-year construction period was allowed. Through an oversight, the land on which the power plant building is located was given interest for one year only. To be consistent, the same construction period must be assumed for the land as for the power plant which is located thereon, since the land must be acquired before construction can commence. Exhibit "C" includes \$6,145.00 additional interest to cover this item.

Before leaving this account, I wish to direct attention to the use of multiples by the engineering department in appraising the lands of the company covered by the terms "right of way" and "other lands used in electric railway operations." These "multiples" or "multipliers" have been used to cover the cost of acquisition and severance and other damages, supposed to be incurred over and above the market value of the lands, and these market values have been increased by their use to determine the "railway value" of the property as shown in the appraisal. The Supreme Court, in its recent decision of the so-called

Minnesota Rate Cases, has refused to allow the use of multipliers in a valuation made for rate-making purposes, and the language of the court in this decision is so broad that it would seem to exclude the use of multipliers in any use which can be made of an appraisal. The court also refused to allow interest during construction or overhead expenses based on market values. It will be sufficient in this proceeding to state that the use of multipliers, interest and incidentals in the values for "right of way" in this appraisal amount to \$35,303.00, and for "other lands used in electric operations," \$39,656.00. No multiples or interest were used on non-operative real estate. Bearing in mind the specific finding which the Commission is herein making and the likelihood that in other proceedings involving this company it may be found improper, under the ruling in the Minnesota Rate Case, to prevent the use of multiples and overhead percentages, with reference to land values, I am of the opinion that it is unnecessary to change the report of our engineers as submitted.

2. Paving.

The representatives of the company at the hearing offered, as Exhibit 1, a document purporting to show an additional amount of money the company had been required to spend under this account because of the fact that after its tracks were laid to the official grade in an unpaved street the city frequently orders that street to be paved and the company finds it necessary to lower the grade of its tracks to enable it to use a certain type of track construction which accompanies the paving. The Commission's engineers have appraised the extra cost of the excavation resulting from the paving requirements of the city at the same price as the original trench excavation, and have not followed the system which the San Diego Electric Railway Company desires to have used. Our engineers have, in other words, used the same quantities that the San Diego Electric Railway Company has used, but they have applied a uniform price for this excavation instead of applying the two prices the company contends should be used, one of these two prices being a fair price for the grading, based on average conditions, and the other being a much higher price for that part of the grading which is done beneath the ties for the purpose of lowering the grade. The engineering department concedes that this additional expense is undoubtedly often incurred, but contends that it is chargeable to operating expenses and not to capital account.

The determination as to what is and what is not properly chargeable to capital account is made in accordance with the rules of the Interstate Commerce Commission. It seems unnecessary to go into the matter further than to quote from the "Uniform System of Accounts for

Electric Railways," prescribed by the Interstate Commerce Commission, issue of 1914, page 91:

"Betterments are physical changes in roadway, structures, facilities, or equipment, the object of which is to make the properties affected more useful or of greater capacity than they were at the time of their installation or acquisition. These accounts shall include only such portion of the cost of betterments as will, when added to the original cost of the property bettered, give the value of the property in its bettered condition. The remainder of the cost of the change shall be classed as a repair and charged to the appropriate expense accounts."

Since the accounts referred to are the "road and equipment" capital accounts, this seems to me to indicate that the contention of the Commission's engineers is correct, and I am of the opinion that no change should be made in their report in this regard.

3. Electric Equipment of Cars.

An error has been found in the extensions of the engineering department's report in four equipments valued at \$1,358.00 each. The addition of a contingency allowance of 2 per cent makes a total addition of \$5,540.64, which amount is included in Exhibit "C."

4. Park and Resort Property.

In the appraisal of the engineering department, park and resort property has been listed with the operative property of the company. It is unnecessary to decide in this proceeding whether for any specified purpose this property should be regarded as operative or non-operative. In Exhibit "C" the property has been listed, for convenience, as non-operative. For the purposes of bond issues it is, of course, immaterial whether this property is listed as operative or non-operative.

5. Miscellaneous.

The Commission's engineering department allowed 2½ per cent of the totals of classes 3 to 51, inclusive, for organization and miscellaneous general expenses. The appraisal submitted by the San Diego Electric Railway Company was based upon 7½ per cent of the totals of these same classes, and at the hearing the company, to substantiate its figures, filed as Exhibit 4 a statement of the various miscellaneous expenses which its engineers considered would be incurred in constructing a road of this character. The percentage used by the Commission's engineering department is based upon actual costs chargeable to this account, taken from a large number of railroads constructed within this State and elsewhere, and it seems unnecessary to comment fully upon this statement of the railway company, which is merely hypothetical. I find, however, that many of the items included therein have been covered by "engineering" and in unit costs, and I am of the opinion that the engineering department's figures in this regard should be accepted.

No objections were presented to the engineering department's estimate with reference to any other item included in reproduction cost.

The necessary changes in the engineering department's estimate have been incorporated in Exhibit "C."

I find that the reproduction cost, as that term has hereinbefore been defined, of the operative property of the San Diego Electric Railway Company, as of June 30, 1914, is the sum of \$4,736,148.70.

(6) Reproduction Cost, Less Depreciation.

The changes and corrections which it has been necessary to make in reproduction cost, in the engineering department's report (Exhibit "B"), necessitate corresponding changes for reproduction cost, less depreciation. There were, in addition to these matters, several items under reproduction cost, less depreciation, to which exception was taken by the engineer of the company, and I shall now discuss them in detail.

1—Power Plant Equipment.

The rate of depreciation applied to power plant equipment by the Commission's engineers was questioned by the company, and after the hearing the engineering department made a reinspection of the equipment and a re-examination of the company's books. They have come to the conclusion that their figures for reproduction cost, less depreciation, were \$15,583.49 too low, and this correction will be made in their report. The representatives of the company at the hearing expressed their willingness to accept the figures of the Commission's engineers, after they had reconsidered the matter, and it is unnecessary for me to comment further upon this subject. Details of the revised figures follow:

| | Total reproduction cost | New condition per cent | Total repro- duction cost less depre- ciation | Increase |
|---|-------------------------------|------------------------------|--|--------------------|
| Miscellaneous pipe and fittings..... | \$52,582 01 | 96 | \$50,478 73 | \$2,103 28 |
| Heating system connections..... | 728 49 | 96 | 699 35 | 29 14 |
| Two 3x2x4 Fairbanks-Morse duplex pumps | 42 00 | 90 | 37 80 | 6 30 |
| General Electric motor coupled to 2-inch V. turbine..... | 475 00 | 90 | 427 50 | 71 25 |
| 6x4x6 Duplex steam pump, No. 201443 | 103 20 | 90 | 92 88 | 15 48 |
| 12x19x10 compound high speed engine | 4,800 00 | 90 | 4,320 00 | 720 00 |
| 16-inch centrifugal pump..... | 1,628 00 | 90 | 1,465 20 | 244 20 |
| 8x8x10 Duplex steam pump..... | 357 00 | 90 | 321 30 | 53 55 |
| Pumping set 7½ H. P. D. C. motors | 471 00 | 90 | 423 90 | 70 65 |
| 10x18x18 horizontal vacuum pump.... | 2,941 00 | 90 | 2,646 90 | 441 15 |
| 9½x9½x10 Westinghouse air compressor | 122 60 | 90 | 110 34 | 18 39 |
| 3x2x3 Duplex steam pump..... | 38 00 | 90 | 34 20 | 5 10 |
| 5,000 sq. ft. surface condenser..... | 8,772 80 | 90 | 7,895 52 | 1,315 92 |
| Pumping set, 6 H. P. type "S" D. C. motor | 474 00 | 90 | 426 60 | 71 10 |
| Pumping set, including Terry steam turbine | 689 00 | 90 | 620 10 | 103 35 |
| Ten-ton traveling crane | 1,017 00 | 96 | 976 32 | 213 57 |
| Turbine generator, 15 K. W. 4,500 rpm. | 1,525 00 | 90 | 1,372 50 | 228 75 |
| 1,000 K. W. turbine generator set, D. C. | 34,517 50 | 88 | 30,375 40 | 4,487 28 |
| 1,000 K. W. turbine generator set, D. C. | 36,038 20 | 90 | 32,434 38 | 720 76 |
| 1,200 K. W. D. C. Westinghouse gen- erator set | 54,310 00 | 90 | 48,879 00 | 1,086 20 |
| Generator set, 60 H. P. D. C. motor... | 1,876 00 | 80 | 1,500 80 | 93 80 |
| Sixty-five-ton traveling crane | 12,715 00 | 90 | 11,443 50 | 254 30 |
| 3x2x3 Duplex steam pump | 47 50 | 90 | 42 75 | 95 |
| 3x2x3 Duplex steam pump | 43 00 | 90 | 38 70 | 86 |
| Portable generator set | 183 00 | 90 | 164 70 | 3 66 |
| Tanks | 250 00 | 90 | 225 00 | 5 00 |
| 252 H. P. Cahall water tube boiler... | 10,441 00 | 76 | 7,935 16 | 419 64 |
| Two 400 H. P. Cahall water tube boilers | 14,446 00 | 75 | 10,834 50 | 433 38 |
| Two 400 H. P. water tube boilers.... | 14,379 00 | 90 | 12,941 10 | 287 58 |
| Stacks and supports..... | 5,706 45 | 90 | 5,135 81 | 1,027 17 |
| 48x18 feed water heaters..... | 3,362 00 | 90 | 3,025 80 | 605 16 |
| Totals | \$265,080 75 | | \$237,325 74 | \$15,129 60 |
| Add 3 per cent contingencies..... | | | | 453 89 |
| Total increase | | | | \$15,583 49 |

The company also objected to our engineers placing the same rate of depreciation on concrete foundations for heavy machinery as was placed on the machinery itself. There seems to be no general rule to follow in deciding this question. If the foundations are so designed that they will outlive the machinery placed upon them and it is probable that a similar machine will replace the one for which the foundation was designed, it would be no more than fair to allow the natural life of the concrete. If, on the other hand, the present machine will probably be replaced by a machine of a type so different as to require the construction of an entirely new foundation, or the reconstruction of the existing foundation at a cost approaching that of a new one, it is apparent that the foundation and the machine upon it should take the

same life. In this case there was no evidence offered to show what the probable facts will be, and I am inclined to accept the opinion of the Commission's engineers and to assume that in this instance the life of the foundations and the machines now upon them will coincide.

2—*Cars.*

In connection with the reinspection of the power plant equipment, noted above, the engineering department made a reinspection of the cars and found that car No. 52 was given a greater depreciation than the facts warrant. The department has recommended that \$355.43 be added to this item under this heading with which recommendation I concur.

3—*Electric Equipment of Cars.*

Another inspection of electric equipment of cars, which the company contended had been too severely depreciated, has resulted in a report by our engineering department that two "general electric motors, 40 horsepower, with controls" were given a shorter life than was fair and they have requested that the condition per cent be raised to 76 per cent of new from the 72 per cent as originally listed. This change will result in an increase of \$73.54.

No exception was taken to the estimates of the engineering department as to reproduction cost, less depreciation, except as to the items already discussed. In Exhibit "C" the necessary changes have been made in the engineering department's estimate of reproduction cost, less depreciation.

I find that the reproduction cost, less depreciation, as that term has hereinbefore been defined, of the operative property of the San Diego Electric Railway Company, as of June 30, 1914, is the sum of \$4,421,159.76.

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of May, 1915.

EXHIBIT "A."

Owning company, San Diego Electric Railway Company; operating company, same; operating division, entire system; main line track, 61.297 miles; other track, 4.145 miles; total, 65.442 miles.
Company's valuation as of June 30, 1914.

| Class No. | Form No. | I. C. C. Acct. No. | Classes | Original cost | Reproduction value | Cond. per cent | Present value |
|-----------|----------|--------------------|---|---------------|--------------------|----------------|----------------|
| 40 | 1 | 1 | Franchises | | \$90,313 13 | | \$90,313 13 |
| 1 | 1 | 2 | Engineering, 5 per cent, 3-39, incl. | | 140,700 62 | | 140,700 62 |
| 2 | 2 | 3 | Right of way | | 57,752 86 | | 57,752 86 |
| 3 | 3 | 4 | Other land used in electric ry. operations | | 614,522 80 | | 614,522 80 |
| 4 | 4 | 5 | Grading | | 144,664 02 | | 146,676 20 |
| 5 | 5 | 6 | Ballast | | 74,811 20 | | 74,115 14 |
| 6 | 6 | 7 | Ties | | 106,239 08 | | 100,959 34 |
| 7 | 7 | 8 | Rails | | 255,783 45 | | 245,829 36 |
| 8 | 8 | 9 | Track fastenings and joints | | 66,173 75 | | 62,865 07 |
| 9 | 9 | 10 | Special work | | 41,761 04 | | 39,740 52 |
| 10 | 10 | 11 | Frogs and switches | | 67,876 23 | | 64,482 44 |
| 11 | 11 | 12 | Underground construction | | | | |
| 12 | 12 | 13 | Paving | | 423,226 03 | | 405,160 51 |
| 13 | 13 | 14 | Tracklaying and surfacing | | 117,051 22 | | 111,763 48 |
| 14 | 14 | 15 | Roadway tools | | 8,310 02 | | 7,894 59 |
| 15 | 15 | 16 | Tunnels | | | | |
| 16 | 16 | 17 | Elevated structures and foundations | | | | |
| 17 | 17 | 18 | Steel bridges and trusses | | 4,467 80 | | 4,269 56 |
| 18 | 18 | 19 | Pile and frame trestles | | 4,264 21 | | 3,997 79 |
| 19 | 19 | 20 | Culverts | | 12,738 90 | | 12,598 41 |
| 20 | 20 | 21 | Fences and cattle guards | | 163 68 | | 155 50 |
| 21 | 21 | 22 | Crossings and signs | | 118 50 | | 112 58 |
| 22 | 22 | 23 | Interlocking plants | | | | |
| 23 | 23 | 24 | Signal apparatus | | 607 32 | | 595 15 |
| 24 | 24 | 25 | Telegraph and telephone lines | | | | |
| 25 | 25 | 26 | Poles and fixtures | | 50,006 90 | | 47,502 03 |
| 26 | 26 | 27 | Underground conduits | | 11,637 35 | | 11,637 35 |
| 27 | 27 | 28 | Transmission system | | 5,703 34 | | 5,478 12 |
| 28 | 28 | 29 | Distribution system | | 147,427 81 | | 140,936 51 |
| 29 | 29 | 30 | Dams, canals and pipe lines | | | | |
| 30 | 30 | 31 | Power plant buildings | | 204,880 50 | | 203,072 64 |
| 31 | 31 | 32 | Substation buildings | | | | |
| 32 | 32 | 33 | General office buildings | | | | |
| 33 | 33 | 34 | Shops and car houses | | 307,940 31 | | 302,891 28 |
| 34 | 34 | 35 | Stations and waiting rooms | | 4,915 06 | | 4,726 76 |
| 35 | 35 | 36 | Miscellaneous buildings | | 2,368 78 | | 2,234 20 |
| 36 | 36 | 37 | I. C. C. Acct. 337, furniture | | 24,739 37 | | 23,255 00 |
| 37 | 37 | 38 | Power plant equipment | | 628,124 03 | | 622,973 25 |
| 38 | 38 | 39 | Substation equipment | | | | |
| 39 | 39 | 40 | Shop equipment | | 33,849 90 | | 32,770 17 |
| 40 | 40 | 41 | Park and resort property | | 58,132 72 | | 55,218 28 |
| 41 | 41 | 42 | Cost of road purchased, $\frac{1}{2}$ of 1 per cent, 2 years, classes 3-49, inclusive | | 35,598 25 | | 35,598 25 |
| 42 | 42 | 43 | Injuries and damages | | | | |
| 43 | 43 | 44 | Cars | | 476,812 84 | | 459,911 05 |
| 44 | 44 | 45 | Freight train cars | | | | |
| 45 | 45 | 46 | Steam locomotives | | | | |
| 46 | 46 | 47 | Electric locomotives | | | | |
| 47 | 47 | 48 | Electric equipment of cars | | 232,692 55 | | 223,450 41 |
| 48 | 48 | 49 | Other rail equipment | | 19,672 67 | | 18,911 36 |
| 49 | 49 | 50 | Miscellaneous equipment | | 16,633 96 | | 15,968 60 |
| 50 | 50 | 51 | Law expenses, 1 per cent, 3-39, inclusive | | 28,140 13 | | 28,140 13 |
| 51 | 51 | 52 | Taxes, $\frac{1}{2}$ of 1 per cent, 3-49, inclusive | | 35,598 25 | | 35,598 25 |
| 52 | 52 | 53 | Miscellaneous, $\frac{1}{2}$ per cent, 3-51, inclusive | | 271,767 22 | | 271,767 22 |
| 53 | 53 | 54 | Interest, 6 per cent, 3-52, inclusive | | 233,719 81 | | 233,719 81 |
| 54 | 54 | 55 | Stores and supplies on hand for use in California | | 205,744 88 | | 205,744 88 |
| | | | Grand totals | | \$5,273,682 49 | | \$5,170,100 60 |
| | | | Average per mile for main track | | 80,696 60 | | 79,111 70 |
| | | | Total "Road," I. C. C. Accts. 1-34 (Incl.) | | 3,717,301 93 | | 3,641,290 64 |
| | | | Total "Equipment," I. C. C. Accts. 35-39 (Incl.) | | 745,812 02 | | 718,241 62 |
| | | | Total "General," I. C. C. Accts. 40-44 (Incl.) | | 604,823 06 | | 604,823 06 |
| | | | Total non-operative property (not included in above totals) | | | | |

EXHIBIT "B."

Owning company, San Diego Electric Railway Company; operating company, same; valuation unit, entire system; county, San Diego; total miles of track, 65.352 miles.
Submitted with report of H. G. Butler; date compiled, January 7, 1915; valuation as of June 30, 1914.

| Class No. | Item No. | I. C. C. Acct. No. | Classes | Original cost | Reproduction value | Cond. per cent | Present value |
|-----------|----------|--------------------|---|---------------|--------------------|----------------|----------------|
| 40 | 1 | 1 | Engineering | | \$143,984 00 | 100 | \$143,984 00 |
| 1 | 2 | 2 | Right of way | | 217,774 00 | 100 | 217,774 00 |
| 2 | 3 | 3 | Other land used in electric ry. operations | | 235,382 00 | 100 | 235,382 00 |
| 3 | 4 | 4 | Grading | | 117,774 00 | 100.2 | 117,981 00 |
| 4 | 5 | 5 | Ballast | | 78,274 00 | 98 | 76,709 00 |
| 5 | 6 | 6 | Ties | | 108,351 00 | 80 | 86,683 00 |
| 6 | 7 | 7 | Rails | | 270,600 00 | 91 | 246,328 00 |
| 7 | 8 | 8 | Track fastenings and joints | | 70,262 00 | 91 | 63,938 00 |
| 8 | 9 | 9 | Special work | | 98,951 00 | 85 | 84,108 00 |
| 9 | 10 | 10 | Frogs and switches | | 1,077 00 | 80 | 862 00 |
| 10 | 11 | 11 | Underground construction | | | | |
| 11 | 12 | 12 | Paving | | 465,489 00 | 90 | 419,147 00 |
| 12 | 13 | 13 | Tracklaying and surfacing | | 129,212 00 | 81.5 | 107,617 00 |
| 13 | 14 | 14 | Roadway tools | | 8,418 00 | 80 | 6,735 00 |
| 14 | 15 | 15 | Tunnels | | | | |
| 15 | 16 | 16 | Elevated structures and foundations | | | | |
| 16 | 17 | 17 | Steel bridges and trusses | | 4,628 19 | 91 | 4,192 73 |
| 17 | 18 | 18 | Pile and frame trestles | | 5,595 92 | 81 | 4,505 15 |
| 18 | 19 | 19 | Culverts | | 13,328 00 | 85 | 11,371 00 |
| 19 | 20 | 20 | Fences and cattle guards | | 171 86 | 85 | 146 68 |
| 20 | 21 | 21 | Crossings and signs | | 117 90 | 80 | 94 92 |
| 21 | 22 | 22 | Interlocking plants | | | | |
| 22 | 23 | 23 | Signal apparatus | | 631 40 | 100 | 631 40 |
| 23 | 24 | 24 | Telegraph and telephone lines | | | | |
| 24 | 25 | 25 | Poles and fixtures | | 47,073 19 | 90 | 42,141 91 |
| 25 | 26 | 26 | Underground conduits | | 15,839 36 | 92 | 14,572 23 |
| 26 | 27 | 27 | Transmission system | | | | |
| 27 | 28 | 28 | Distribution system | | 162,984 31 | 90 | 145,542 06 |
| 28 | 29 | 29 | Dams, canals and pipe lines | | | | |
| 29 | 30 | 30 | Power plant buildings | | 295,594 22 | 97 | 287,527 27 |
| 30 | 31 | 31 | Substation buildings | | | | |
| 31 | 32 | 32 | General office buildings | | 22,392 75 | 90 | 20,152 47 |
| 32 | 33 | 33 | Shops and car houses | | 312,105 61 | 98 | 304,795 32 |
| 33 | 34 | 34 | Stations and waiting rooms | | 5,356 93 | 95 | 5,088 09 |
| 34 | 35 | 35 | Miscellaneous buildings | | | | |
| 35 | 36 | 36 | Docks and wharves | | | | |
| 36 | 37 | 37 | Power plant equipment | | 568,905 10 | 88 | 500,107 85 |
| 37 | 38 | 38 | Substation equipment | | | | |
| 38 | 39 | 39 | Shop equipment | | 35,262 27 | 95 | 33,480 83 |
| 39 | 40 | 40 | Park and resort property | | 50,131 91 | 95 | 47,430 62 |
| 40 | 41 | 41 | Cost of road purchased | | | | |
| 41 | 42 | 42 | Injuries and damages | | 18,900 00 | 100 | 18,900 00 |
| 42 | 43 | 43 | Cars | | 488,342 34 | 80 | 436,013 12 |
| 43 | 44 | 44 | Freight train cars | | | | |
| 44 | 45 | 45 | Steam locomotives | | | | |
| 45 | 46 | 46 | Electric locomotives | | | | |
| 46 | 47 | 47 | Electric equipment of cars | | 232,624 26 | 89 | 206,560 32 |
| 47 | 48 | 48 | Other rail equipment | | 18,825 12 | 81 | 15,268 01 |
| 48 | 49 | 49 | Miscellaneous equipment | | 16,633 96 | 90 | 14,970 96 |
| 49 | 50 | 50 | Law expenses | | 71,992 00 | 100 | 71,992 00 |
| 50 | 51 | 51 | Taxes | | 18,180 00 | 100 | 18,180 00 |
| 51 | 52 | 52 | Miscellaneous | | 97,229 00 | 100 | 97,229 00 |
| 52 | 53 | 53 | Interest | | 128,459 00 | 100 | 128,459 00 |
| 53 | 54 | 54 | Stores and supplies on hand for use in California | | 213,537 37 | 100 | 213,537 37 |
| 54 | 55 | 55 | Grand totals | | \$4,781,533 97 | 93 | \$4,450,047 63 |
| | | | Average per mile for main track | | 73,165 84 | | 68,688 52 |
| | | | Total "Road," I. C. C. Accts. 1-34 (incl.) | | | | |
| | | | Total "Equipment," I. C. C. Accts. 35-39 (incl.) | | | | |
| | | | Total "General," I. C. C. Accts. 40-44 (incl.) | | | | |
| | | | Total non-operative property (not included in above totals) | | 179,562 00 | 100 | 179,562 00 |

EXHIBIT "C."

Owning company, San Diego Electric Railway Company; operating company, same; valuation unit, entire system; county, San Diego; total miles of track, 65.352 miles.
Submitted with report of H. G. Butler; date compiled, April 17, 1915; valuation as of June 30, 1914.

| Class No. | Form No. | I. C. C. Acct. No. | Classes | Original cost | Reproduction value | Con- t. per cent | Present value |
|-----------|----------|--------------------|---|---------------|--------------------|---------------------------|----------------|
| 40 | 1 | 1 | Engineering | | \$141,476 95 | 100 | \$141,476 95 |
| 1 | 1 | 2 | Right of way | | 217,774 00 | 100 | 217,774 00 |
| 2 | 2 | 3 | Other land used in electric ry. operations | | 241,527 00 | 100 | 241,527 00 |
| 3 | 3 | 4 | Grading | | 117,764 00 | 100.2 | 117,981 00 |
| 4 | 4 | 5 | Ballast | | 78,274 00 | 98 | 76,700 00 |
| 5 | 5 | 6 | Ties | | 108,354 00 | 80 | 86,683 00 |
| 6 | 6 | 7 | Rails | | 270,680 00 | 91 | 246,328 00 |
| 7 | 7 | 7 | Track fastenings and joints | | 70,262 00 | 91 | 63,938 00 |
| 8 | 8 | 8 | Special work | | 98,951 00 | 85 | 84,168 00 |
| 9 | 9 | 8 | Frogs and switches | | 1,077 00 | 80 | 862 00 |
| 10 | 10 | 9 | Underground construction | | | | |
| 11 | 11 | 10 | Paving | | 465,480 00 | 90 | 419,147 00 |
| 12 | 12 | 11 | Tracklaying and surfacing | | 120,242 00 | 89.5 | 107,617 00 |
| 13 | 13 | 12 | Roadway tools | | 8,418 00 | 80 | 6,735 00 |
| 14 | 14 | 13 | Tunnels | | | | |
| 15 | 15 | 14 | Elevated structures and foundations | | | | |
| 16 | 15 | 15 | Steel bridges and trusses | | 4,628 19 | 91 | 4,192 73 |
| 17 | 16 | 15 | Pile and frame trestles | | 5,595 92 | 81 | 4,505 15 |
| 18 | 17 | 15 | Culverts | | 13,368 00 | 85 | 11,371 00 |
| 19 | 18 | 16 | Fences and cattle guards | | 171 86 | 85 | 146 08 |
| 20 | 19 | 16 | Crossings and signs | | 117 90 | 80 | 94 92 |
| 21 | 20 | 17 | Interlocking plants | | | | |
| 22 | 21 | 17 | Signal apparatus | | 631 40 | 100 | 631 40 |
| 23 | 22 | 18 | Telegraph and telephone lines | | | | |
| 24 | 23 | 19 | Poles and fixtures | | 47,073 19 | 90 | 42,141 91 |
| 25 | 24 | 20 | Underground conduits | | 15,839 36 | 92 | 14,572 23 |
| 26 | 25 | 21 | Transmission system | | | | |
| 27 | 26 | 22 | Distribution system | | 162,984 31 | 90 | 145,542 08 |
| 28 | 27 | 23 | Dams, canals and pipe lines | | | | |
| 29 | 28 | 24 | Power plant buildings | | 286,594 22 | 97 | 287,527 27 |
| 30 | 29 | 25 | Substation buildings | | | | |
| 31 | 30 | 26 | General office buildings | | 22,392 75 | 90 | 20,152 47 |
| 32 | 31 | 27 | Shops and car houses | | 312,106 61 | 98 | 304,705 32 |
| 33 | 32 | 28 | Stations and waiting rooms | | 5,356 93 | 95 | 5,088 69 |
| 34 | 33 | 28 | Miscellaneous buildings | | | | |
| 35 | 34 | 29 | Docks and wharves | | | | |
| 36 | 35 | 30 | Power plant equipment | | 568,905 10 | 91 | 515,691 34 |
| 37 | 36 | 31 | Substation equipment | | | | |
| 38 | 37 | 32 | Shop equipment | | 35,262 27 | 95 | 33,480 83 |
| 39 | 38 | 33 | Park and resort property | | | | |
| 41 | 39 | 34 | Cost of road purchased | | | | |
| 42 | 40 | 35 | Injuries and damages | | 18,664 91 | 100 | 18,664 91 |
| 43 | 41 | 35 | Cars | | 488,342 34 | 80 | 436,368 55 |
| 44 | 42 | 36 | Freight train cars | | | | |
| 45 | 43 | 36 | Steam locomotives | | | | |
| 46 | 44 | 37 | Electric locomotives | | | | |
| 47 | 45 | 37 | Electric equipment of cars | | 238,164 90 | 88 | 209,938 15 |
| 48 | 46 | 38 | Other rail equipment | | 18,825 12 | 81 | 15,268 01 |
| 49 | 47 | 39 | Miscellaneous equipment | | 16,633 96 | 90 | 14,970 26 |
| 50 | 48 | 40 | Law expenses | | 70,738 48 | 100 | 70,738 48 |
| 51 | 49 | 41 | Taxes | | 17,957 53 | 100 | 17,957 53 |
| 52 | 50 | 42 | Miscellaneous | | 96,008 58 | 100 | 96,008 58 |
| 53 | 51 | 43 | Interest | | 126,958 55 | 100 | 126,958 55 |
| 55 | 52 | 44 | Stores and supplies on hand for use in California | | 213,537 37 | 100 | 213,537 37 |
| | | | Grand totals | | \$4,736,148 70 | 93 | \$4,421,159 76 |
| | | | Average per mile for main track | | 72,471 00 | | 67,651 00 |
| | | | Total "Road," I. C. C. Accts. 1-34 (incl.) | | | | |
| | | | Total "Equipment," I. C. C. Accts. 35-39 (incl.) | | | | |
| | | | Total "General," I. C. C. Accts. 40-44 (incl.) | | | | |
| | | | Total non-operative property (not included in above totals) | | | | |
| | | | Other lands | | \$179,562 00 | 100 | \$179,562 00 |
| | | | Park and resort property | | 50,131 91 | 95 | 47,430 62 |
| | | | Totals | | \$229,693 91 | 99 | \$226,992 62 |

DECISION No. 2385.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO ISSUE ITS COMMON CAPITAL STOCK IN THE MANNER AND FOR THE PURPOSES SPECIFIED THEREIN.

Application No. 1633.

Decided May 12, 1915.

Applicant, having retired from surplus profits \$849,500.00 face value of its outstanding bonds during the period January 1, 1914, to April 1, 1915, and contemplating the retirement of \$1,461,000.00 additional bonds in a like manner during the balance of this year, applies for permission to issue 19,266 shares of its common capital stock of the par value of \$100.00 per share, such stock to be issued to present holders of applicant's common stock as a dividend in lieu of the net earnings used in the retirement of bonds, and though under conditions existing in the present case such authorization is warranted, a general review of conditions under which common stock is usually issued made and certain practices criticised, though with no direct relation to the present proceeding,

Held, Application granted, provided such stock shall be issued only to common stockholders of applicant and only after applicant shall have presented a statement to the effect that it shall not use this authorization as a basis to claim a recognition of values of its assets.

W. B. Bosley and C. P. Cutten, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

In this matter Pacific Gas and Electric Company asks for authority to issue to the holders of its common stock, additional common stock not to exceed 19,266 shares of the par value of \$100.00 per share. It is the purpose of the applicant as set forth in this proceeding to issue this stock to holders of its common shares in lieu of the distribution of a cash dividend. It is set forth that Pacific Gas and Electric Company has retired \$849,500.00 face value of its outstanding bonds during the period from January 1, 1914, to April 1, 1915, and that the bonds thus retired have been redeemed through the net earnings or surplus profits of the applicant.

It is further set forth that during the remainder of the year 1915 the applicant proposes to retire \$1,461,000.00 additional of its outstanding bonds, such bonds to be redeemed from the net profits of the company. During the period of the two calendar years 1914 and 1915, therefore, the applicant, according to the testimony, will have retired \$2,310,500.00 face value of its funded debt.

This sum of money, it is alleged, would have been available for distribution in the form of dividends to the holders of the common stock of the corporation. The petitioner asserts that it could, if it thought

it desirable policy, distribute this sum, or a portion thereof, in dividends, and thereafter sell to the holders of its common stock additional common stock in such amount that the dividend would be returned into the company's treasury. Thereafter, with this money the company could retire its bonds for sinking fund purposes. The effect of these transactions would be the reduction of the funded debt in the sums called for by the various sinking funds and the issue of additional common stock. To accomplish the same end by a shorter process the applicant contends that, having retired over the period of the two years 1914 and 1915 outstanding bonds to the amount of \$2,310,500.00, it should be entitled to issue to its stockholders additional common stock of par value not exceeding the face value of the bonds redeemed.

In this application, however, request is made for authority to issue the common stock in a sum not exceeding 6 per cent of the par value of the amount of common stock now outstanding in the hands of the public. The applicant reports outstanding common stock in the hands of the public of the par value of \$32,109,300.00. Six per cent of this sum would amount to \$1,926,558.00.

In effect, therefore, the applicant asks authority to issue not to exceed 19,266 shares of its common stock for the purpose of reimbursing its treasury for moneys used to retire its bonds. Instead of regaining the money into its treasury through the sale of this stock and distributing the money thereby gained as dividends to its stockholders, the company proposes to issue the stock direct to its stockholders, thereby accomplishing in one step what would otherwise require two steps.

During the hearing upon this matter the attention of the applicant was called particularly to two elements involved in this situation: First, that the Commission had no evidence upon which it could base a finding that the stock which the applicant asked the Commission to authorize represented a definite amount of assets; and second, the possibility that such an authorization might be construed as a finding of value in the outstanding common stock of this applicant, and that such authorization would be used hereafter to urge a value or a basis upon which this Commission should allow rates to be predicated.

Applicant urges that the authorization to issue stock would not entail an authorization for general sale, but would admit merely of a further distribution of the stock among its present holders. Applicant stipulated that any authorization granted should be upon the condition that such authorization would not be a presumptive finding of property or assets to support the outstanding common stock. Applicant urged that matters of valuation and rates could be based only upon the actual assets of this corporation without reference to its security issues.

In this matter I confess to certain difficulties. When this Commission authorizes an issue of stock there is always danger of a misunderstanding on the part of the investing public that in making the authorization this Commission, in some degree, inferentially expresses its belief that that stock is supported by reasonable assets. Upon the faith of this view investors might be led to purchase securities which they would not otherwise acquire. It would be extremely unfortunate if the idea should become lodged in the public mind that Commission authorization to issue stock entails a recognition or belief on the part of the Commission that such stock is necessarily a good investment. The Public Utilities Act does not contemplate that the Commission shall exercise any such function. It does contemplate that the Commission shall, in the exercise of its duties, see that the utility receives an adequate return for the stock which it issues. But this Commission can not go into the past and breathe value into stock which has no value, nor can this Commission go into the future and say that values of today shall not shrink next year, or the year after, or ten years hence.

It has been the aim of the Commission, as far as could reasonably be done, to safeguard the issue of stocks and bonds. It has never pretended to say that stocks and bonds which it authorized were necessarily good stocks and bonds for an intending investor to buy. On the contrary, it has specifically and repeatedly stated that stocks and bonds issued upon Commission authorization must take their place in the financial world with stocks and bonds heretofore or hereafter issued, and were, therefore, liable to the same economic laws to which all investment is necessarily subject. There is no guarantee by the State.

In many instances this Commission is obliged, under the necessities of a corporation, to authorize securities to be issued, even when it may believe that such securities, though beneficial to the corporation, might not be beneficial to the intending purchaser. Take, for example, a new enterprise, as an electric railway: The project is organized and in order to construct the line it is necessary to sell stocks or bonds. The most conservative way is perhaps the sale of stock. An application is brought to the Commission thereupon to sell stock to build such a railway. It is the most conservative way in which the project can be presented. It may appear to the Commission that the project is not wholly feasible; that the investors may perhaps lose a part, and, it may be, all of their investment. In such an instance it is not the province of this Commission to assume to set up its judgment as a barrier to the investment by those who are willing to assume the risks involved. It is the duty of the Commission to see that the project is surrounded with all reasonable safeguards, to see that the enterprise is carried forward honestly along approved lines, and beyond that it can not go.

I would issue a warning, therefore, to the public or that part of the public which has conceived it to be the function of this Commission to allow the issue of only such investment securities as should be sure to be remunerative and profitable to the investor. That, of course, is not the case. Every stock and every bond issued with the authorization of this Commission should, by the investing public, be subjected to the same scrutiny and to the same test as any other stock or bond which might be available on the market for public purchase.

My comments upon this subject are not intended to refer to any particular corporation. I have merely taken this opportunity to make these observations in view of the peculiar problems presented by this application. It has been my personal view that common stock should be issued in the State of California without par value. This would leave the bonds and the preferred stock with a fixed face or par value, but the common stock of a corporation would merely represent a proportionate interest in the residual assets and would share in profits after the preferred stock. It would make small difference, then, if the matter were thoroughly understood, whether these residual assets were evidenced by 100 certificates of stock or 1,000 certificates of stock, as these certificates would bear no fixed par value and would not claim to represent more than they did actually represent, which would be a proportionate interest in these residual assets.

Let us say a corporation, for instance, had assets of \$100,000.00—\$70,000.00 of bonds and \$10,000.00 of preferred stock. That would leave \$20,000.00 of assets over and above the bonds and preferred stock. Now, if this corporation were capitalized at par throughout, there would be outstanding against this \$20,000.00 of residual assets 200 shares of stock of the par value of \$100.00 per share. However, it has been the practice in the State of California to distribute common stock promiscuously in exchange for so-called services, and by this expedient corporations have been enabled to put out a much greater amount of stock than the exact intention of the law contemplated. If, however, the par value of common stock were removed in the case of the corporation just referred to, and 200 shares were outstanding, each share would represent nothing more than one two-hundredth interest in the \$20,000.00 of remaining assets. On the other hand, if, instead of 200 shares, 1,000 shares were issued, each share would represent one one-thousandth of the residual assets.

The evil in this whole situation of common stock arises primarily from the par value feature by which a certificate bears a fixed par value and assumes to represent that par value when, as a matter of fact, it represents nothing more than a proportional interest in the remaining assets and in profits.

If the present holders of the common stock of this applicant, therefore, desire and propose to have issued to them new shares of stock which will keep them in the same proportional position, and if this can be done without injury to any one, it would appear that on general principles it might be allowed to do so. On the other hand, we have the situation of new common stock with a par value denomination passing from the corporation into the hands of the present stockholders where it can be made available for purchase by any member of the public.

As heretofore said, this Commission has not the evidence before it to determine what amount of the assets, if any, are attributable to the common stock of this applicant. On its part, the applicant has offered to waive any claim that the issue of such stock would entail a recognition of any values in this common stock beyond such as there may be hereafter found to exist by an actual valuation of these assets, compiled upon the basis of its physical plant, and such intangibles as may be possessed of value.

It appears also that this applicant could disburse any dividends its surplus provides. I am inclined to think it would be a more conservative process, as far as the general benefits to accrue to the corporation itself are concerned, if, instead of a disbursement of these profits, they were used to redeem outstanding bonds for sinking fund purposes.

If this were an application to sell this common stock on the market generally, I should recommend a denial of this application on the showing made. As it is a request merely to place this stock with the present stockholders, I am inclined to believe the problem may be considered in a different aspect.

The stock will be issued at par, or for 100 cents on the dollar, that is, for every ten shares to be issued, \$1,000.00 of bonds will have been retired.

Some question has arisen in connection with the depreciation account of this applicant, and I believe these matters should be adjusted before the new stock is issued.

The applicant has submitted the following income account, showing its earnings and expenses for the calendar year 1914, the first three months of 1915, and the total for the fifteen months:

PACIFIC GAS AND ELECTRIC COMPANY INCOME ACCOUNT.

| | Year 1914 | Three months 1915 | Total |
|--|------------------------|-----------------------|------------------------|
| Revenue: | | | |
| Income from operations..... | \$16,912,687 92 | \$4,749,326 63 | \$21,662,014 55 |
| Miscellaneous net income..... | 307,815 77 | 71,314 06 | 379,129 83 |
| Total revenue | \$17,220,503 69 | \$4,820,640 69 | \$22,041,144 38 |
| Expenses: | | | |
| Operating expenses— | | | |
| Maintenance | \$1,052,434 60 | \$235,637 63 | \$1,288,072 23 |
| Operating expenses | 6,207,853 77 | 1,639,583 40 | 7,847,437 17 |
| Total operating expenses | \$7,260,288 37 | \$1,875,221 03 | \$9,135,509 40 |
| Other expenses: | | | |
| General and administration ex- penses | \$697,585 96 | \$161,872 75 | \$859,458 71 |
| Taxes—State and county..... | 721,231 40 | 186,829 59 | 908,060 99 |
| Federal | 21,815 85 | 9,801 82 | 31,617 67 |
| Insurance—Fire | 15,000 00 | 6,000 00 | 21,000 00 |
| Casualty | 90,000 00 | 24,000 00 | 114,000 00 |
| Uncollectible accounts | 108,000 00 | 27,000 00 | 135,000 00 |
| Total other expenses | \$1,653,633 21 | \$415,504 16 | \$2,069,137 37 |
| Total expenses | \$8,913,921 58 | \$2,290,725 19 | \$11,204,646 77 |
| Net plant income | \$8,306,582 11 | \$2,529,915 50 | \$10,836,497 61 |
| Deductions: | | | |
| Interest— | | | |
| Bonds | \$3,748,330 01 | \$950,932 20 | \$4,699,262 21 |
| Floating debt | 443,071 38 | 116,341 05 | 559,412 43 |
| Discount and expense..... | 469,515 01 | 36,957 84 | 506,472 85 |
| Depreciation | 1,000,000 00 | 300,000 00 | 1,300,000 00 |
| Total deductions | \$5,660,916 40 | \$1,404,231 09 | \$7,065,147 49 |
| Net surplus | \$2,645,665 71 | \$1,125,684 41 | \$3,771,350 12 |
| Dividends paid—preferred stock | 614,983 37 | 192,998 65 | 807,982 02 |
| Balance | \$2,030,682 34 | \$932,685 76 | \$2,963,368 10 |

Under all of the circumstances in this case, I am inclined to recommend that the application be granted, with certain conditions attached, and I therefore recommend the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to this Commission for authority to issue 19,266 shares of its common capital stock of the par value of \$100.00 per share, and a hearing having been held,

and it appearing that the purposes for which applicant proposes to issue said stock are not chargeable to operating expenses or to income,

It is hereby ordered that Pacific Gas and Electric Company be granted authority and it is hereby granted authority to issue 19,266 shares of its common capital stock of the par value of \$100.00 per share.

The authority herein granted is granted upon the following conditions and not otherwise:

1. The stock herein authorized to be issued shall be issued only to the holders of the applicant's common stock on the basis of \$100.00 per share, for the purpose of reimbursing the applicant for the use of money in its treasury for the redemption of bonds during the calendar years 1914 and 1915, in the sum of \$1,926,660.00.

2. Immediately upon the issuance of the stock herein authorized to be issued, applicant shall make report to this Commission, stating in detail the amount of stock issued and the consideration received therefor.

3. The stock herein authorized to be issued shall be issued only after the applicant shall have adjusted its books of account, and particularly in regard to applicant's depreciation account, in a manner satisfactory to this Commission.

4. The stock herein authorized to be issued shall be issued only after the applicant shall have presented in writing to this Commission, a statement to the effect that the authorization herein given shall not be used as a basis to claim a recognition or approval or a finding of value or any value of the assets of this corporation for a determination of proper rates to be charged by this applicant, nor for a determination of such other issues as may arise before this Commission or other public tribunal in connection with the affairs of this applicant.

5. The authorization herein given is given upon the condition only that the stock herein authorized to be issued is to be issued to existing holders of the common stock of this applicant.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of May, 1915.

DECISION No. 2386.

IN THE MATTER OF THE APPLICATION OF MARIN COUNTY ELECTRIC RAILWAYS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION AND OPERATION OF A STREET RAILWAY SYSTEM IN MILL VALLEY AND FOR AUTHORITY TO ISSUE STOCKS AND BONDS.

Application No. 947.

Decided May 12, 1915.

Applicant having previously been authorized to issue stock for the purpose of constructing a street railway in Mill Valley, with the proviso that construction was not to begin until \$35,000.00 had been secured from the sale of such stock, and applicant presenting letters from stockholders representing approximately \$20,000.00, expressing their willingness that construction work begin, original order amended to permit of the construction of the first unit of applicant's line along Throckmorton avenue, Mill Valley.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

SIXTH SUPPLEMENTAL OPINION.

In its decision upon Application No. 947, this Commission authorized the applicant herein to issue six hundred and seventy (670) shares of capital stock of the par value of \$100.00 per share, or a total par value of \$67,000.00, for the purpose of constructing an electric line of railway in Mill Valley. The order provided that construction work should not be begun until the applicant had collected \$35,000.00 from stock subscriptions. The amount was fixed at \$35,000.00, as it was estimated that this sum would construct the first unit of the proposed line in Mill Valley. Subsequently the applicant appeared before this Commission and asked for authority to begin construction work in Mill Valley on private funds, it having been unable to sell the full \$35,000.00 of stock required by the Commission's original order.

As an alternative the applicant requested that it be granted authority to accept a proposal of Hicks-Folte Corporation to build the first mile of street railway, and to accept as payment notes of stock subscribers.

In passing upon this application the Commission said (Decision No. 1958) :

"This permission the Commission is not disposed to grant unless it can be shown that the notes to be given to Hicks-Folte Corporation or otherwise used in constructing the road, are the notes of subscribers living along the first unit of the road or along the first mile, for which permission is now asked to build, unless subscribers to the stock living along other sections of the proposed road will express a willingness to this Commission, in writing, to have the notes which they have given for stock subscriptions used to build the first mile of the road."

Since the date of the above order applicant has presented to the Commission letters from stock subscribers representing stock to the amount of approximately \$20,000.00, signifying their willingness that moneys paid, or to be paid, by them shall be used to construct any part of the railway lines which shall be started first, and, further, that they are willing to make payments upon their stock subscriptions as the work progresses, provided construction work is commenced immediately.

In view of the agreements thus made by these stock subscribers, I am willing to recommend that the Commission's original order be modified to permit of the construction of the first mile of railway, namely, the Throckmorton avenue line running from the Northwestern Pacific Railroad depot in Mill Valley toward the Cascades.

I submit the following form of order:

ORDER.

Marin County Electric Railways having made application to this Commission for authority to construct certain lines of electric railway in Mill Valley, as hereinbefore set forth, and this Commission having authorized the construction of said lines of railway under certain specified conditions: and applicant having complied with these conditions to the extent set forth in the opinion which precedes this order,

It is hereby ordered that the original order of this Commission, dated March 26, 1914, in the matter herein, and such supplemental orders as have been made subsequent thereto, be and they are hereby amended to permit of the construction by Marin County Electric Railways of the first mile of its line in Mill Valley, namely, the Throckmorton avenue line, running from the Northwestern Pacific Railroad depot in Mill Valley toward the Cascades.

It is further ordered that all the conditions enumerated in the original order of March 26, 1914, in the matter herein, and such supplemental orders as have been subsequently issued thereon, which are not in conflict with the order herein, shall remain unaltered and shall attach as conditions hereto.

The authority herein granted is conditioned upon the commencement of construction work upon the Throckmorton avenue line by Marin County Electric Railways not later than December 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of May, 1915.

DECISION No. 2387.

IN THE MATTER OF THE APPLICATION OF RICHLAND REALTY COMPANY AND OF DIRECTORS OF ENCANTO HEIGHTS MUTUAL WATER COMPANY, A DEFUNCT CORPORATION, AS TRUSTEES OF THE PROPERTY THEREOF, FOR AN ORDER AUTHORIZING THE CONVEYANCE OF WATER SYSTEM AT ENCANTO TO HARRY R. ATWOOD.

Application No. 1396.

Decided May 12, 1915.

Richland Realty Company, applicant herein, organized a mutual water company to serve the territory known as Encanto Heights and issued stock in such water system to purchasers of property from it in that district, contracting with such purchasers to furnish them water at 10 cents per 1,000 gallons, the wholesale rate at which such water was being purchased by themselves. The mutual water system plan not being successful, the realty company attempted to transfer title to such system to the property owners and failing in this, offered it for sale at the nominal price of \$1.00, but being unable to sell, the system was turned over to Harry R. Atwood to operate. The realty company now applies for permission to transfer the legal title thereto to Atwood for a consideration of \$1,325.00, which action is protested by certain of the consumers who claim an equity in such system.

Held, Application granted, provided Harry R. Atwood file with the recorder of San Diego County and with this Commission an agreement that neither he nor his assigns shall ever claim in any rate inquiry, a return upon the full value of this property, other than the amount they themselves have actually invested therein, also that if any public authority hereafter undertakes to acquire such system they shall not claim compensation therefor over and above the amount actually invested by them in such plant.

That considering the realty company has on numerous occasions attempted to transfer title to this system for practically no consideration, even though it has been appraised at approximately \$30,000.00, \$10.00 would appear to be a reasonable amount it should be willing to accept therefor to prevent consumers from paying rates which would provide a return upon property for which they have already practically paid in the purchase of their lots.

H. E. Doolittle, for Harry R. Atwood.

A. H. Sweet, for Richland Realty Company.

J. F. Carey, for Consumers.

REPORT OF THE COMMISSION.

THELEN, Commissioner.

This is an application for an order authorizing the sale of a water system at Encanto, San Diego County, by the owners thereof to Harry R. Atwood for the sum of \$1,325.00.

The history of this water system was quite fully set out by this Commission in its Decision No. 1386, rendered on March 28, 1914, in Case No. 547, in the matter of the rates charged and service rendered by Harry R. Atwood (Vol. 4, p. 570, Opinions and Orders of the Railroad Commission of California), to the opinion wherein reference is hereby made.

It appears from the evidence in Case No. 547 and in the present proceeding that this water system was originally constructed by Richland Realty Company or by Encanto Heights Mutual Water Company or in part by both companies for the purpose of aiding the sale of the land at Encanto owned and subdivided by Richland Realty Company. The Encanto Heights Mutual Water Company was incorporated on January 27, 1908, by the incorporators of Richland Realty Company for the purpose of taking care of the water business of Richland Realty Company, and was to be as the name indicates, a mutual water company. To the first few purchasers of land from Richland Realty Company shares of stock in Encanto Heights Mutual Water Company were issued, but the project was not successful, for the reason that the purchasers of land from Richland Realty Company did not desire to have imposed upon them the burden of maintaining the water system. The mutual water company failed to pay its taxes to the State of California, and has now become defunct.

It is evident that if this plan had been carried out, the purchasers of land from Richland Realty Company would have owned the water system, through stock ownership in Encanto Heights Mutual Water Company, without the expenditure of a dollar for the water system, in addition to the price paid for the land. The only expense in connection with the water system would have been the expense of operating and maintaining the system.

Thereafter, to induce intending customers to buy land at Encanto, Richland Realty Company caused Encanto Heights Mutual Water Company to issue agreements to deliver water to the purchaser of the land "at the usual rate fixed by said corporation for the delivery of water in said vicinity, which said rate shall in no event be in excess of the sum of ten cents per thousand gallons." As Richland Realty Company was paying 10 cents, or almost 10 cents, per thousand gallons of water to Southern California Mountain Water Company, it is clear that 10 cents per thousand gallons did not even pay the cost of operating and maintaining the system and that Richland Realty Company did not intend that the rate paid for water by the purchasers of its land should include any item whatsoever for a return on the investment in the water system.

A number of customers also bought land from Richland Realty Company without a written agreement, but under the distinct representation that they were to secure water at 10 cents per thousand gallons.

Later Richland Realty Company offered to turn over the water system to the people of Encanto without any payment whatever for the system, if the people would operate and maintain it, but the offer

was not accepted. At other times, Richland Realty Company offered to sell the system for \$1.00 to any one who would take it.

It is entirely clear that Richland Realty Company never expected that the purchasers of its land should pay any consideration for the water system in addition to the price paid by them for their land, and that the company never expected that the rate charged for water should include any item for a return on the investment in the water system.

Since October 25, 1912, Harry R. Atwood has been in the possession of this system, and has been operating it and receiving the revenues therefrom. It is now proposed by the owners of the system to convey the legal title to him under a contract providing for the payment of \$1,325.00.

That the present condition is anomalous and embarrassing is evident. The ownership and the possession are divorced. The owner cares nothing about the system and the person in possession lacks the backing of the legal title. Atwood is putting money of his own into a system which does not belong to him and unless he secures the legal title he may lose what he has invested and he certainly would be free from censure if he refused to make further investment in property belonging to some one else. In order to protect the investment already made by him, as well as to give him a firm foundation for further investments, as they become necessary, I am of the opinion that he should secure the legal title to this system, if this can be accomplished in such a way as not to do injustice to the people of Encanto.

If the legal title passes to Atwood unconditionally, he or his successors would be in a position to do a grave injustice to the people of Encanto in at least two respects. First, being the owner of the unincumbered legal title, he might be able through the courts, if not through the Railroad Commission, to compel the payment by the consumers at Encanto of rates high enough to yield the usual rate of return on the entire value of the property, though it cost him only an insignificant sum. As the cost of reproducing the system new as of March 28, 1914, was in the neighborhood of \$37,750.00, and as its depreciated reproduction value as of that date was in the neighborhood of \$30,000.00, it is evident that the gravest injustice to the consumers might follow. It was never intended that the consumers should pay in their water bills one dollar in the way of return on the investment made by Richland Realty Company, and this Commission will not consciously sanction any arrangement which would produce such a result.

Second, if the people of Encanto should hereafter incorporate and desire to operate this water system as a municipal system, or if the laws should be changed so that a water district can be formed here in unincorporated territory to take over this system, or if the city

of San Diego should desire to acquire and operate it, the public authorities may find themselves in the position of being compelled to pay again for a system which has already in effect been paid for by the purchasers of land at Encanto, unless a condition taking care of this situation is attached to the transfer.

A decision in this application was deferred so as to give the citizens of Encanto an opportunity to incorporate a water district for the purpose of acquiring and operating this system. At the time of the hearing herein an effort was being made to incorporate Encanto and it was thought that if incorporation were effected the municipality might desire to take over and operate this system as a municipal water system. The proposed incorporation was defeated at the polls. A number of citizens then sought to incorporate a municipal water district out of the unincorporated territory of Encanto, but after repeated efforts they have been advised by the district attorney of San Diego County that under present laws unincorporated territory containing a population of only 700 people can not form a water district. Hence this effort to obtain public ownership has also failed. In view of these facts, I am of the opinion that a decision on this application can not be longer deferred. The conditions in the order, however, will protect the rights of the people of Encanto.

I recommend that the transfer be authorized, but only on condition that Atwood file with this Commission and record in the office of the county recorder of San Diego County duplicate agreements running to the State of California on the part of himself and his assigns, agreeing that he and they will never claim in any rate inquiry before any public authority or in any court, any return on any part of this water system other than the moneys which he or they may have invested therein, and that if any public authority shall hereafter undertake to acquire this system Atwood and his assigns will not, before any public authority or in any court, claim a compensation in excess of the moneys which he or they may have actually invested in the system.

As the Richland Realty Company has heretofore in various forms offered to turn this system over to the people of Encanto without the payment of any additional consideration, and to sell it to any one for \$1.00, the company should not now receive \$1,325.00 for it. The company should be glad, particularly in view of the agreements made by it, to part with this system and the responsibilities connected therewith for the nominal consideration of \$10.00.

Atwood's counsel suggested that if any restrictions are placed upon the passage of the legal title, his client would be unable to borrow money on the property for the purpose of making extensions thereto. However, as the Railroad Commission will in a rate fixing inquiry

allow a return on the moneys which Atwood or his assigns may invest in the system, and as the Commission will in a proceeding by any public authority to take over this property allow all such moneys in the price established, I believe that there is no ground for this fear.

A number of consumers under this system filed a protest against the granting of the application on the grounds (1) that the Richland Realty Company is not the owner of the property, and (2) that the consumers have paid for the property and their title can not be divested by an order of this Commission. While it is undoubtedly true that the consumers have equities in this property, particularly in that portion thereof which was installed by or through the Richland Realty Company, it is equally true that the legal title to the property is in Richland Realty Company, or in the directors of the defunct Encanto Heights Mutual Water Company, as trustees of its property, or both, and that none of the consumers have legal title thereto. This proceeding is merely one for the transfer of the legal title and no equitable rights will be interfered with. The consumers were unwilling to take over the legal title when it was offered to them several years ago and they have no organization now for that purpose. I am of the opinion that their rights will be fully protected by the conditions in the order herein.

I submit the following form of order:

ORDER.

Richland Realty Company and the directors of Encanto Heights Mutual Water Company, a defunct corporation, as trustees of its property, having filed their petition for an order authorizing the conveyance to Harry R. Atwood of their public utility water system located at Encanto, San Diego County, California, and more particularly described in Schedule Four attached to the petition herein, and a public hearing having been held on said petition, and the matter having been submitted and being now ready for decision,

It is hereby ordered that Richland Realty Company and the directors of Encanto Heights Mutual Water Company, a defunct corporation, as trustees of the property thereof, are hereby authorized to convey to Harry R. Atwood all that real and personal property, being located in Encanto and Encanto Heights, San Diego County, California, being dedicated to the public utility water business and more particularly described as follows:

Lot two of the Rosemont tract; part of lots forty-two and sixty in the resubdivision of the tract known as Rosemont Resubdivision, and lot eight in Park Addition and lot eight in Block "J" of Park Addition, and the west half of lot eighteen in block four of Encanto, all in Encanto Heights, and all tanks, buildings, structures and all improvements of every kind and nature standing or being upon said land,

or any of the same, and all pipes and pipe lines laid in the streets of Encanto Heights and in the subdivisions thereof for the conducting or carrying of water and also all other property and property rights of the said party of the first part now used in connection with the furnishing of water or with the system for the furnishing of water in the said village of Encanto and Encanto Heights and all franchises of said party of the first part for the operation of said system, except, however, the franchise of said party of the first part to be a corporation, which said franchise to be a corporation is expressly reserved and excepted from this conveyance and the effect and operation thereof. The streets and highways in said Encanto Heights in which said pipes and pipe lines are laid include the following, to wit:

Shaules avenue, Medizar avenue, Klauber avenue, Montana street, Woodman street, Boston avenue, Pacific drive, Madrone avenue, Ritchey street, Park drive, Oncl street, Jamacha roads, Encanto street, Fergus street, Grant street, Hunsaker street, Indian street, Judith street, Akins avenue, County road, Brooklyn avenue, Wonderlin avenue, Norine street, Spruce street, Bach avenue, Rosemont drive, Falon street, Kendall avenue, Evelyn street, Detroit street, Sutter street, First avenue, Water street, Third avenue, Fourth avenue, Empire avenue, Tooley street, Lemon Grove avenue, Winnett street, Olive street, Lincoln street, Tyler street, Jefferson street, Franklin street, Robinson street, Mariposa avenue, Copeland street, Front street, Hilger street, Williams street, Zeller street, Gibson street, Tarbox street.

The foregoing authorization is granted only on the following express conditions and not otherwise, to wit:

1. Harry R. Atwood shall prepare, in duplicate, filing one copy with the Railroad Commission and recording one copy in the office of the county recorder of San Diego County, California, an agreement running to the State of California, in which Atwood for himself and his assigns agrees that in consideration for the passage to Atwood of the legal title to the above described property and as a condition thereto he and they will never in any rate inquiry before any public authority or in any court claim any return on any part of said water system other than on the moneys which he or they may have invested therein, and that if any public authority shall hereafter undertake to acquire said water system Atwood and his assigns will not, before any public authority or in any court, claim a compensation in excess of the moneys which he or they may have actually invested in the system.

2. The authority hereby given shall not become effective until the Railroad Commission has made a supplemental order herein reciting that an agreement satisfactory in form has been filed with it and that it is satisfied that a duplicate thereof has been recorded in the office of the county recorder of San Diego County, California.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 12th day of May, 1915.

DECISION No. 2388.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF THE NORTHERN ELECTRIC RAILWAY COMPANY, MARYSVILLE
AND COLUSA BRANCH.

Case No. 318.

Decided May 11, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject-matter of this proceeding being covered in Case No. 132
—In the matter of ascertaining the value of the property of Northern
Electric Railway Company,

It is hereby ordered that this proceeding be, and the same is hereby,
dismissed.

Dated at San Francisco, California, this 14th day of May 1915.

DECISION No. 2389.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF THE VALLEJO AND NORTHERN RAILROAD COMPANY.

Case No. 320.

Decided May 11, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject-matter of this proceeding being covered in Case No. 132
—In the matter of ascertaining the value of the property of Northern
Electric Railway Company,

It is hereby ordered that this proceeding be, and the same is, hereby
dismissed.

Dated at San Francisco, California, this 14th day of May, 1915.

DECISION No. 2390.

GREAT WESTERN POWER COMPANY AND TOWN OF SUISUN CITY
vs.
PACIFIC GAS AND ELECTRIC COMPANY, AND PACIFIC TELEPHONE
AND TELEGRAPH COMPANY.

Case No. 351.

Decided May 14, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainants in the above entitled matter having, on May 12, 1915, made written request to this Commission that the above entitled case be dismissed,

It is hereby ordered that the above entitled case be, and the same is hereby, dismissed.

Dated at San Francisco, California, this 14th day of May, 1915.

DECISION No. 2391.

IN THE MATTER OF THE APPLICATION OF SAN BERNARDINO AND
REDLANDS RAILROAD COMPANY AND THE SOUTHERN PACIFIC
COMPANY FOR PERMISSION TO ABANDON OPERATION OF A
LINE OF RAILROAD.

Application No. 1527.

Decided May 14, 1915.

San Bernardino and Redlands Railroad Company, owning a narrow gauge railroad running between San Bernardino and Redlands, which is operated by Southern Pacific Company, applies jointly with the latter company for permission to abandon such line, submitting, in connection with such application, a statement of operating revenues and expenses for the year 1914, showing a passenger revenue of \$30.70 and operating expenses of \$6,438.46. Application granted, provided that applicants in the removal of their tracks shall leave all streets in serviceable condition.

C. F. Cable, for Applicants.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

This is an application of the San Bernardino and Redlands Railroad Company and the Southern Pacific Company for permission to discontinue the operation of the narrow gauge railroad of the San Bernardino and Redlands Railroad between the cities of San Bernardino and Redlands to and to remove the tracks, rails and other material. A public hearing was held at San Bernardino on March 16, 1915, at which time all interested parties were present.

The San Bernardino and Redlands Railroad is a narrow gauge railroad connecting the cities of San Bernardino and Redlands in San Bernardino County, and having a total length of 10.12 miles. The ownership of the San Bernardino and Redlands Railroad Company covers the line from San Bernardino to Motor Junction, a distance of 7.246 miles. The Southern Pacific Company is the owner of the line of railroad from Motor Junction to Redlands, a distance of 2.874 miles, and narrow gauge tracks are laid over this portion of the line, making possible the operation of narrow gauge trains between the cities of San Bernardino and Redlands. The operation of the San Bernardino and Redlands Railroad has been conducted by the Southern Pacific Company under and in accordance with the terms of an agreement dated March 1, 1912.

Due to the construction of the Pacific Electric Railway between San Bernardino and Redlands, the traffic formerly enjoyed by the San Bernardino and Redlands Railroad has largely been cared for by the trains of the Pacific Electric Railway; the Atchison, Topeka and Santa Fe Railway also operates between San Bernardino and Redlands and has also been a factor in the diversion of traffic from the narrow gauge line of the San Bernardino and Redlands Railroad.

It appears that no freight traffic has been handled over the line for some years and that the passenger service has been reduced from time to time until at the date of this application but one passenger train each way daily was being operated.

The applicants presented a statement at the hearing showing that the passenger revenue for the year ending December 1, 1914, for the portion of the line between San Bernardino and Motor Junction amounted to \$30.70, while the operating expenses for the same period amounted to \$6,438.46, or a net operating loss of \$6,407.76.

There were presented as exhibits accompanying the application resolutions of the board of supervisors of San Bernardino County under date August 24, 1914; of the city council of the city of San Bernardino dated October 19, 1914; and of the board of trustees of the city of Redlands dated October 7, 1914; all consenting to the abandonment of service and taking up of the track, rails and other material of the narrow gauge railroad of the San Bernardino and Redlands Railroad Company upon condition that all public streets, highways and county roads upon which the railroad may run over or across shall not be destroyed or impaired as to their serviceability or efficiency by reason of the removal of the narrow gauge tracks and that all damage caused to such streets or highways by reason of the removal of the tracks should be repaired at the expense of the San Bernardino and Redlands Rail-

road Company. The county of San Bernardino by its board of supervisors also canceled any and all franchises held or owned by the Southern Pacific Company connected with the operation of the narrow gauge railway between the city of San Bernardino and the city of Redlands which were applicable outside of municipalities and directed the removal of all ties and tracks within a reasonable time after the approval of this Commission as to the suspension of operation and abandonment and removal of track should have been secured.

It appears that the abandonment of the railroad and the removal of the tracks and rails will abolish twenty-five or more crossings at grade which now exist and which present more or less hazard of accident to the public using the streets and highways upon which the railroad operates or which may be crossed by it.

No appearance was made at the hearing in opposition to the granting of the application and in view of the very considerable loss in the operation of the railroad as shown by the evidence, I am of the opinion that the application should be granted.

The convenience of the public who may desire to travel by railroad between the cities of Redlands and San Bernardino is amply cared for by the service offered by the trains of the Pacific Electric Railway Company and the Atchison, Topeka and Santa Fe Railway Company, the former operating eighteen passenger trains daily in each direction and the latter three passenger trains daily in each direction; a total of twenty-one trains daily in each direction which furnish frequent and adequate service between the two cities.

At the hearing of this case mention was made of a water pipe which was attached to a trestle crossing Warm Creek from "D" street to "C" street in the city of San Bernardino, and as to whether any contract existed whereby the owner of the water pipe would be deprived of any rights should the abandonment of the line include the removal of the trestle to which the pipe is attached. I am of the opinion that the order of the Commission granting this application should be without prejudice to any existing rights of the owner of the water pipe at present attached to the trestle of the applicant, San Bernardino and Redlands Railroad Company, which crosses Warm Creek in the city of San Bernardino from "D" to "C" streets.

I recommend that this application be granted and herewith submit the following form of order:

ORDER.

The San Bernardino and Redlands Railroad Company and the Southern Pacific Company having made application to discontinue operation of a narrow gauge railroad between the cities of San Bernardino and Redlands in San Bernardino County and to remove the

tracks, rails and other material between San Bernardino and Motor Junction, a public hearing having been held, and the Commission being fully advised in the premises.

It is hereby ordered that the San Bernardino and Redlands Railroad Company and the Southern Pacific Company be and the same are hereby authorized to discontinue the operation of passenger train service on the narrow gauge line of railroad between the cities of San Bernardino and Redlands in the county of San Bernardino; and that the San Bernardino and Redlands Railroad Company and the Southern Pacific Company be and the same are hereby authorized to take up and remove the tracks, rails and other material in the narrow gauge railroad between the city of San Bernardino and the station known as Motor Junction and to take up and remove the narrow gauge tracks now laid on the Southern Pacific Company's right of way between the station known as Motor Junction and the city of Redlands, subject to the following terms and conditions, and not otherwise:

(1) The removal of the ties, rails and other material in the narrow gauge tracks of the railroad shall be made within a reasonable time after the effective date of the Commission's order permitting the discontinuance of operation between the cities of San Bernardino and Redlands in the county of San Bernardino and the removal of the material shall be accomplished in a manner which will not interfere with the efficiency or serviceability of any public street or highway upon or across which the said tracks may run and all damage which may be caused to any street or highway by such removal shall be repaired at the expense of the applicant, San Bernardino and Redlands Railroad Company.

(2) The granting of permission to abandon and take up the narrow gauge tracks of the San Bernardino and Redlands Railroad Company is without prejudice to the rights of the owner of that certain water pipe attached to the trestle of the San Bernardino and Redlands Railroad crossing Warm Creek from "D" street to "C" street in the city of San Bernardino.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of May, 1915.

DECISION No. 2392.

W. H. DAUM

vs.

SOUTHERN PACIFIC COMPANY ET AL.

Case No. 467.

Decided May 14, 1915.

Complainant, alleging that defendant's line operated along Alameda street, in the city of Los Angeles, is a source of extreme danger, owing to the number of grade crossings and the frequency of trains, petitions the Commission to compel a separation of grades along such street between Main and Ninth streets. After a consideration of the question of jurisdiction, in which it is shown that the city charter of Los Angeles gives such city control over the safety and operation of carriers and persons within its incorporate limits:

Held, That this Commission has no jurisdiction over the matters complained of. Complaint dismissed.

Trippet, Chapman & Bidy, for Complainant.

C. W. Burbrow and *Frank Karr*, for Southern Pacific Company and Pacific Electric Railway Company.

John G. Mott and *G. C. O'Connell*, for Alameda Street Property Owners, Intervenors.

S. M. Haskins, for Los Angeles Railway Corporation.

Albert Lee Stephens and *Howard Robertson*, for City of Los Angeles.

REPORT OF THE COMMISSION.

EDGERTON, Commissioner.

Complainant alleges that by reason of the operation by Southern Pacific Company of a steam railroad on the surface of Alameda street in the city of Los Angeles the public is endangered, inconvenienced and injured. The claim is made that numerous streets across Alameda street and the tracks of the Southern Pacific Company thereon at points between Main street and Ninth street in said city, and that at these crossings, because of the frequent operation of trains on Alameda street, there is a serious stoppage and delay of vehicles and pedestrians, and that, notwithstanding the operation of gates and signal devices at these crossings, there is constant danger of collision and injury.

The complaint also alleges that Southern Pacific Company proposed to build a new passenger depot at Fifth and Alameda streets, which depot was designed with the view to maintaining the tracks on the surface of Alameda street as they now exist, and that if this depot was built as designed, the railroad would later contest the removing of its tracks from the surface of Alameda street, on the ground that such removal would cause serious loss of investment in this depot, because of the necessary reconstruction thereof.

Numerous property owners located east of Alameda street joined in the complaint, and a large number of property owners west of Alameda street intervened in opposition to the complaint.

Subsequent to the filing of the complaint herein, Southern Pacific Company filed an application for an order authorizing it to tear down and abandon an existing passenger depot in the city of Los Angeles and to erect a new depot on the approximate site of the old one, and to take up and relocate existing trackage and place new trackage in accordance with plans and specifications submitted with said application.

The complaint herein was first heard, and immediately following said application of Southern Pacific Company was heard. Both the complainant herein and the city of Los Angeles appeared in the matter of the application of Southern Pacific Company and objected to the granting of the application unless the building of the depot contemplated therein would in no wise delay or prevent the separation of dangerous or objectionable grade crossings on Alameda street.

Thereupon, the Southern Pacific Company stipulated that if permitted to erect this depot no objection would ever be made to the separation of grade crossings in the city of Los Angeles based on the expenditure made for the erection of this depot.

Thereafter, this Commission made an order granting the application of Southern Pacific Company for the tearing down of the existing depot at Fifth and Alameda streets and approving the plans and specifications for the erection of a new depot and the replacing and relocating of tracks in connection therewith.

This leaves only for consideration that part of the complaint herein which has to do with the separation of alleged dangerous grade crossings on Alameda street.

I will not discuss the merits of this matter as presented by the evidence, because I believe the complaint must be dismissed for lack of jurisdiction of the Railroad Commission to make an order in the premises.

The power and jurisdiction of the Commission in this connection is found in sections 42 and 43 (b) of the Public Utilities Act. Section 42 provides:

“The Commission shall have power, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise, to require every public utility to maintain and operate its line, plant, system, equipment, apparatus, tracks and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers, and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety or other devices or appliances, including interlocking and other protective devices at grade crossings or junctions and

block or other systems of signaling, to establish uniform or other standards of construction and equipment, *and to require the performance of any other act which the health or safety of its employees, passengers, customers or the public may demand.*"

Section 43 (b) provides, with reference to a crossing of a highway by tracks of any railroad, or vice versa:

"The Commission shall have the exclusive power * * * to require where, in its judgment, it would be practicable, a separation of grades at any such crossing heretofore or hereafter established and to prescribe the terms upon which such separation shall be made and the proportions in which the expense of the alteration or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad corporations affected or between such corporations and the state, county, municipality or other public authority in interest."

Standing alone these provisions of the Public Utilities Act clearly give the Commission power to grant the relief requested in this case, but it must be remembered that under section 23 of article XII of the constitution and section 82 of the Public Utilities Act, such powers of control vested in cities as of March 23, 1912, remain vested in such cities. Therefore, if on March 23, 1912, the city of Los Angeles had control of the subject-matter of this complaint, the reservation in the constitution and the Public Utilities Act, just above referred to, would hold as against this Commission's jurisdiction.

Looking, therefore, to the city charter of Los Angeles to determine what powers the city had on March 23, 1912, we find section 35 of said charter to be as follows:

"It (city council) shall, by ordinance, regulate the speed of railroad trains, engines or cars, street or other railroad cars, automobiles, or other vehicles in the city, and require persons, firms or corporations, operating railroads, or street or other railroads, to station flagmen, place gates or construct bridges, viaducts, tunnels or subways at railroad crossings, as the council may deem proper."

It seems clear that as to the safety of the general public using the street at its crossing with the railroad the city of Los Angeles has jurisdiction. On the other hand, it seems equally clear that the Railroad Commission has jurisdiction over the safety and convenience of passengers and employees on a railroad, even over city streets where this railroad is operated through territory in the jurisdiction of the Commission, as well as through the city.

The above statement may seem to raise a question of conflict between the jurisdiction of a city and the Commission, where both the safety and convenience of the public using the street where it crosses over a railroad, and the safety and convenience of the people traveling on the railroad trains are involved. It may be that if such conflict arises the

jurisdiction of the Commission would be paramount, because to admit the jurisdiction of a city within its boundaries over an interurban railroad might very easily destroy the effectiveness of the jurisdiction of the Commission over the entire railroad.

It is not necessary, however, in this case to decide this question, because both the complaint, and all of the evidence introduced by complainant, had to do solely with the question of the convenience and safety of the public using the street at its crossing over the railroad, and no reference was made, nor was there any suggestion, that the safety and convenience of the people traveling on the railroad trains of defendant was impaired because of the alleged dangerous and improper grade crossings.

Confining this decision strictly to the issues raised in this case, I hold that the Commission has not jurisdiction to pass upon the matters involved, and, therefore, recommend that the complaint be dismissed.

Herewith a form of order:

ORDER.

Complaint having been made by W. H. Daum against the Southern Pacific Company et al., and a hearing having been had, and the matter having been submitted and considered, and basing its order on the foregoing opinion,

It is hereby ordered by the Railroad Commission of the State of California that the complaint herein be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of May, 1915.

DECISION No. 2393.

IN THE MATTER OF THE APPLICATION OF THE SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF BONDS.

Application No. 808.

Decided May 14, 1915.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER NO. 8.

Supplemental application having been made by the San Diego and Arizona Railway Company, a corporation, on May 7, 1915, for the approval by the Commission of a certain contract (known as No. 10, San Diego east) for grading and construction work amounting to a

total of two hundred fourteen thousand six hundred seventy-four dollars and fifty-seven cents (\$214,674.57), and it appearing to the Commission that said application should be granted,

It is hereby ordered by the Railroad Commission of the State of California that said contract entered into with Robert Sherer & Company for certain work, as outlined in the application, is hereby approved.

Dated at San Francisco, California, this 14th day of May, 1915.

DECISION No. 2394.

IN THE MATTER OF THE APPLICATION OF CITY OF SOUTH SAN FRANCISCO FOR PERMISSION TO CONSTRUCT AT GRADE A PUBLIC STREET OVER THE TRACKS OF SOUTHERN PACIFIC COMPANY IN SOUTH SAN FRANCISCO, SAN MATEO COUNTY, CALIFORNIA.

Application No. 849.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF TRUSTEES OF THE CITY OF SAN BRUNO FOR PERMISSION TO CONSTRUCT CERTAIN PUBLIC STREETS AT GRADE OVER THE TRACKS OF SOUTHERN PACIFIC COMPANY, NEAR SAN BRUNO, SAN MATEO COUNTY, CALIFORNIA.

Application No. 1591.

Decided May 17, 1915.

This Commission, having granted the city of South San Francisco permission, under an ex parte order, to open two Linden avenue crossings and to close San Bruno road and Tanforan avenue crossings, and a misunderstanding subsequently arising, the matter was reopened for hearing and consolidated with an application of city of San Bruno for permission to construct several crossings at grade, to which applications a number of protests are made as regards the San Bruno and Tanforan closings.

As the Commission has held on numerous occasions, no crossings at grade will be permitted unless the public necessity for such crossings offsets the danger in connection therewith. That traffic in this locality does not justify a number of crossings in such close proximity.

Held, City of South San Francisco permitted to construct two Linden avenue crossings at grade, across the tracks of Southern Pacific Company and city of San Bruno permitted to connect Scott and Hough streets and extend Bay Shore avenue at grade across the tracks of Southern Pacific Company, applicants to stand all expenses in connection with such construction, provided Tanforan avenue and San Bruno road crossings shall be abandoned as public highways.

J. W. Colberd, for the City of of South San Francisco.

H. A. Mason, for the City of San Bruno.

J. M. Custer, for an improvement club of the fifth addition of San Bruno.

A. Campbell and *J. J. Bullock*, for certain protestants.

Geo. D. Squires, for Southern Pacific Company.

G. D. Ferrell, for San Mateo County.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

The following seven grade crossings with the Southern Pacific Company's tracks are involved in these two applications:

First—A proposed crossing of Linden avenue over the Baden branch of the Southern Pacific at the intersection of Linden avenue with the Baden branch near Railroad avenue. This crossing was applied for under application No. 849.

Second—A proposed crossing of Linden avenue over two main line tracks and one passing track of the Southern Pacific about 700 feet north of the crossing of Tanforan avenue with the Southern Pacific main line. This crossing was applied for under Application No. 849.

Third—An existing crossing of San Bruno road over five tracks of Southern Pacific Company now protected by crossing gates and flagmen. This crossing it is proposed to abandon in Application No. 849.

Fourth—An existing crossing over three tracks of Southern Pacific Company at the south city limits of South San Francisco and the north city limits of San Bruno. It is proposed to abandon this crossing in Application No. 849.

Fifth—A proposed crossing to connect Scott and Hough streets over the main line tracks of Southern Pacific in the city of San Bruno; applied for under Application No. 1591.

Sixth—A proposed crossing of Bay Shore avenue over a wye track of the Southern Pacific Company in the city of San Bruno; applied for in Application No. 1591.

Application No. 849 was filed with the Commission by the city of South San Francisco on November 28, 1913. It applied for permission to open the two Linden avenue crossings and stated that the existing San Bruno road crossing would be abandoned. It was accompanied by an easement from the Southern Pacific Company granting the city right of way necessary for the two Linden avenue crossings, the easement for the main line crossing being made contingent upon the closing of the San Bruno road crossing. After the application was filed some delay took place while negotiations were under way regarding protection for the main line Linden avenue crossing and during these negotiations the location of that crossing was slightly changed. On September 4, 1914, a new easement was received from the Southern Pacific Company covering the main line crossing on Linden avenue in its new location. This second easement was granted contingent upon closing the Tanforan avenue crossing as well as closing the San Bruno road crossing specified in the original easement.

The Commission caused an inspection to be made after the application was filed, and was fully informed of the progress of negotiations between the city and the Southern Pacific regarding the protection of

the main line Linden avenue crossing, as well as the reasons leading to the requirement for the closing of the Tanforan avenue crossing in the second easement granted by the Southern Pacific Company. During these negotiations it was understood that the crossing of Tanforan avenue would be closed only when the city of South San Francisco had constructed a connection between that street and the new Linden avenue main line crossing proposed to be opened.

On October 15, 1914, shortly after the revised easement for the main line crossing was received, the Commission entered an ex parte order granting the application in accordance with the terms of the second easement which required the closing of the crossings at Tanforan avenue and San Bruno road, and the Commission further required the installation of an automatic flagman to protect the crossing of the main line on Linden avenue. It was not specified in that order which party was to take the necessary steps to close the two crossings ordered abandoned, and the two Linden avenue crossings were opened and an automatic flagman installed at one of them without the other two being closed. In fact after the order was issued the Commission informally requested the Southern Pacific Company to keep the Tanforan crossing open until the connection between that street and the new Linden avenue crossing was graded.

After the order was issued it appeared that there was a conflict of opinion between the city of South San Francisco and San Mateo County as to which organization had jurisdiction over Tanforan avenue. This being undecided and there having been several protests filed against the closing of the crossing of the San Bruno road, the Commission decided to review the whole matter by a formal hearing. This hearing was held in San Francisco on March 8, 1915, all interested parties being represented. It appeared that in the interim between the issuance of the ex parte order and the hearing, the town of San Bruno had been incorporated and had succeeded to whatever rights the county of San Mateo had possessed over the Tanforan avenue crossing. The city of San Bruno was represented at the hearing by its attorney, Mr. Mason, who stated that while his city was not particularly interested in the Linden avenue or the San Bruno road crossings it was interested in the Tanforan avenue crossing and would object to having it closed unless the people served by it could secure some other outlet to the south. He stated that he had a plan whereby this could be brought about by making a new crossing at Scott and Hough streets and one on Bay Shore avenue over a wye track in the Bay Shore circle. There being no application before the Commission for these two crossings Mr. Mason was advised that the matter could not be considered at that time and that such testimony as would be taken at the hearing then in progress would be confined to the crossing in which he was not

interested, and after he had filed an application for the two crossings which he desired to have made, a further hearing would be held, at which both applications would be considered together. On March 18, 1915, the application of the city of San Bruno for the two crossings it desires (Application No. 1591) was received and at the further hearing on April 26, 1915, Applications Nos. 849 and 1591 were consolidated, testimony was taken, and the Commission can now consider as a whole the crossing situation in these two adjacent cities.

New Linden avenue is an extension of Linden avenue in the city of South San Francisco built across the track of the Southern Pacific's Baden branch near Railroad avenue, across the tracks of the Southern Pacific main line about 600 feet north of Tanforan avenue, to a junction with the San Bruno road near its intersection with Tanforan avenue. It develops that one of the principal reasons for the construction of this new road is that it would avoid the crossing of the San Bruno road and the main line of the Southern Pacific Company which it was stated in the application was considered dangerous. The new road was not constructed because the San Bruno road was not sufficient to care for the traffic and there is very little testimony to the effect that two roads are needed between the business section of South San Francisco and the junction of the new Linden avenue and San Bruno road. These two streets at Railroad avenue, and for some distance north, in the city of South San Francisco are but one block apart.

The Commission's attitude towards opening grade crossings is so well known that it seems unnecessary to state here that it will not permit new crossings to be opened unless the need for them be proven. It was certainly not proven in this case that two roads are needed to serve the traffic between South San Francisco and San Bruno.

Those who protested were represented by counsel and their principal objection was directed against the closing of the San Bruno crossing on the ground that it would injure their business and force down the value of their property. We have here a case in which the Commission, having once decided that two roads with consequent grade crossings are not needed, must determine in deciding which crossing shall be used, which of two routes shall remain open between South San Francisco and San Bruno; these two routes being by San Bruno road and Linden avenue.

The city of South San Francisco undoubtedly has the right to determine which street it shall improve and make a through street and it has exercised that right in building the new Linden avenue. It must be assumed that in deciding to construct this through street it took into consideration the effect it would have upon the city as a whole as well as upon those who are in business on San Bruno road north of the crossing and who would find, as a result of this new street extension, that

they were no longer on the main thoroughfare. Such being the case the Commission's only interest in possible damage to business and property values is in the light it would throw upon public necessity and convenience. If that were great enough to require the opening of an additional grade crossing, with the hazard always attendant upon a grade crossing, it would be its duty to balance that hazard against the public necessity and convenience in arriving at a decision. If it finds but one road is needed and it can choose between two, it must again balance public necessity and convenience with the hazard in deciding between them.

I have previously stated that no need for two roads from the business section of South San Francisco to San Bruno was shown. I am convinced that either of these two roads would serve the public equally well, since they come together at the south city limits and are nowhere more than two blocks apart in the business and residence section of the city, and that the route having the safer grade crossings is the one which should be selected.

I am of the opinion that the two crossings necessitated by the Linden avenue route are much less dangerous than the one crossing of San Bruno road. The first crossing on Linden avenue going south from the city of South San Francisco is across the Baden branch of the Southern Pacific, a track upon which the traffic is light. The view at this crossing is comparatively open and such traffic as uses the tracks is not at high speed. The second, or main line crossing of Linden avenue, is over three tracks of the Southern Pacific where as many main line trains operate and where the speed of the trains is the same as it is at the San Bruno crossing, but in this case all four corners, at the intersection of the avenue with the tracks, are open, and the crossing is made at such an angle that a good view can be had of approaching trains. The San Bruno crossing, on the other hand, is conceded by the protestants to be a dangerous crossing and the testimony of all witnesses who had no local interest in the situation, and who can therefore be thought to be unprejudiced, was that the angle which the tracks make here with the San Bruno road, the number of tracks crossed, the obscured view of trains and the amount of switching which takes place over it, makes it an exceedingly dangerous crossing and one which is immeasurably more hazardous than the crossing of the main line at Linden avenue. I believe it is a fact that automatic flagman protection at the Linden avenue crossing will make that crossing comparatively safe, while the San Bruno crossing, with its more expensive and efficient protection, will always be an exceedingly dangerous crossing.

I am of the opinion that no mistake was made in granting permission for the opening of the two Linden avenue crossings contingent upon the closing of the San Bruno road crossing.

The view at the Tanforan avenue crossing is comparatively open. It is, however, but a few hundred feet away from the Linden avenue main line crossing, and it is not considered necessary to have two crossings so near together in a section where there is so little traffic. There are many people living on this street west of the track whose only means of ingress and egress to their homes is now by way of Tanforan avenue. For their convenience in going to and from the north it would be necessary to have a connection between Tanforan and the Linden avenue crossing; and to avoid a circuitous route to points south of the Tanforan avenue crossing, if it were closed, it would be necessary to open the two crossings, one on Scott and Hough streets and one on Bay Shore avenue, which will be considered presently. If these two crossings were opened and a connection were made between Tanforan avenue and Linden avenue, it appears there would be no objection to the closing of the former crossing. In fact, the testimony shows the situation would be considerably improved by making these changes.

The crossing to connect Scott and Hough streets across the track is not considered dangerous since the view in all directions is more or less open; and the crossing at the Bay Shore circle by Bay View avenue is over a track used but few times a day for slow speed passenger switching. The opening of these crossings will not only permit the closing of Tanforan avenue, but will add considerably to the convenience of the people living in the territory west of the track and south of Tanforan and may preclude the necessity of the city of San Bruno asking for other crossings in this vicinity in the near future. The attorney for the Southern Pacific Company stated that his company conceded the need of these crossings.

I am of the opinion that these applications should be granted; that the crossings of San Bruno road and Tanforan avenue should be closed; that San Bruno road crossing should be closed immediately, but that the Tanforan avenue crossing should be closed only when the Scott and Hough and the Bay Shore crossings are installed and when the connection previously mentioned is made between Linden avenue and Tanforan.

It will be expected that the city of South San Francisco will make this connection immediately and the opening of the Linden avenue crossings, permission for which is granted in the following order, is expressly contingent upon that connection being made.

I recommend the following form of order:

ORDER.

City of South San Francisco and city of San Bruno, having applied to the Commission for permission to make certain crossings and to close certain crossings, in the cities of South San Francisco and San Bruno, San Mateo County, California, and public hearings having been held, at which all interested parties were represented, and the Commission being fully apprised in the premises,

It is hereby ordered that the order previously made in regard to Application No. 849 is hereby annulled.

It is hereby further ordered that permission be and the same is hereby granted the city of South San Francisco to construct Linden avenue at grade across the tracks of Southern Pacific Company, in the city of South San Francisco, San Mateo County, as follows:

A public highway known as Linden avenue at the intersection of said Linden avenue with the Baden branch of the Southern Pacific Company.

A public highway known as Linden avenue at its intersection with the main line tracks of Southern Pacific Company at engineer's station about 39 plus 00.

Both of the above crossings being more particularly described in the application and shown by the map and profile accompanying same, and to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, except the installation of approved type of automatic flagman, to be hereinafter mentioned, shall be borne by the applicant.

(2) The expense of maintaining the crossings on both sides of the tracks, and up to two (2) feet thereof, shall be borne by applicant.

(3) The expense of maintaining the crossings over the tracks and to a distance of two (2) feet outside thereof, shall be borne by Southern Pacific Company.

(4) Crossings shall be constructed of a width not less than twenty-four (24) feet, with grades of approach not exceeding six (6) per cent. and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(5) Southern Pacific Company shall install and maintain, at its own expense, an automatic flagman of type approved by the Commission at the main line crossing.

It is hereby further ordered that permission be and the same is hereby granted the city of San Bruno to construct two public highway crossings at grade across the tracks of Southern Pacific Company, in the city of San Bruno, San Mateo County, California, as follows:

Crossing of the main line track of Southern Pacific Company to connect Scott and Hough streets across those tracks.

Crossing of Bay Shore avenue over a wye track of Southern Pacific Company in the Bay Shore circle.

Both of the above crossings being more particularly described in the application and shown by the map accompanying same, and to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings shall be borne by the city of San Bruno.

(2) The expense of maintaining the crossings on both sides of the tracks, and up to two (2) feet thereof, shall be borne by applicant.

(3) The expense of maintaining the crossings over the tracks, and to a distance of two (2) feet outside thereof, shall be borne by Southern Pacific Company.

(4) Crossings shall be constructed of a width not less than eighteen (18) feet, with grades of approach not exceeding six (6) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

It is hereby further ordered (1) that the present crossing of the San Bruno road by the tracks of Southern Pacific Company, at Southern Pacific Company's engineer's station about 72 plus 05, shall be legally closed and abandoned as a public highway crossing.

(2) The present crossing of Tanforan avenue, at its intersection with the tracks of Southern Pacific Company, shall be legally closed and abandoned as a public highway crossing.

It is hereby further ordered that the Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of the crossings involved in these applications as to it may seem right and proper and to revoke the permission herein granted if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of May, 1915.

DECISION No. 2395.

IN THE MATTER OF THE APPLICATION OF FOWLER INDEPENDENT
TELEPHONE COMPANY FOR AN ORDER AUTHORIZING ISSUE OF
STOCK.

Application No. 1282.

Decided May 17, 1915.

Fowler Independent Telephone Company authorized to issue sixty shares of its capital stock of the par value of \$50.00 per share, 50 shares to be sold at not less than par, proceeds to be used for additions and betterments, and 10 shares to be issued in lieu of shares heretofore issued without the necessary authorization.

Howard A. Harris, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application by Fowler Independent Telephone Company for an order of this Commission permitting it to issue sixty shares of its capital stock at fifty dollars per share, fifty shares of which it desires to issue for purposes of making additions and betterments to its plant at Fowler, California, and for installing additional telephones from time to time as needed. It desires to issue the remaining ten shares in lieu of a like number of shares which have been unlawfully issued heretofore, as follows:

| Date issued | Certificate number | Issued to | Number shares | Amount |
|---------------|--------------------|----------------------------|---------------|---------|
| May 20, 1912 | 403 | C. H. Williams ----- | 1 | \$50 00 |
| June 19, 1912 | 406 | Chas. Church ----- | 1 | 50 00 |
| June 19, 1912 | 407 | F. W. Kirby ----- | 1 | 50 00 |
| Oct. 23, 1912 | 411 | H. C. Neel ----- | 1 | 50 00 |
| Dec. 31, 1912 | 413 | W. T. Gibson ----- | 1 | 50 00 |
| Mar. 7, 1913 | 422 | Fowler National Bank ----- | 1 | 50 00 |
| May 6, 1913 | 429 | T. B. Runciman ----- | 1 | 50 00 |
| Oct. 24, 1913 | 435 | M. M. Kazarian ----- | 1 | 50 00 |
| June 8, 1914 | 455 | N. L. Stickles ----- | 1 | 50 00 |
| Mar. 4, 1914 | 458 | Manuel F. Plmental ----- | 1 | 50 00 |

This company was incorporated May 31, 1905, under the laws of this State with an authorized capitalization of \$7,500.00 divided into 250 shares of the par value of \$30.00 per share. On October 24, 1910, at a special meeting called by its board of directors and at which more than two thirds of its stockholders were represented, its authorized capitalization was increased to \$30,000.00 divided into 1,000 shares of the par value of \$30.00 per share. A certificate of increase of capital stock covering this action of its stockholders has been filed with the county clerk of Fresno County and a copy filed with the secretary of state.

During the month of March, 1907, its stock was sold at \$40.00 per share and, after assessments had been subsequently levied against all of

the shares of stock previously sold sufficient to bring the total price paid for each share up to \$50.00, its stock was sold during the month of June, 1911, at this figure, and all stock sold since that date has been sold for this amount. It now has outstanding \$13,850.00 in stock. No bonds have ever been issued. Its total indebtedness at this time, covered principally by short term notes, and aside from ordinary operating expenses, is \$3,500.00. No dividends have been paid the stockholders, the profits of the business having been put back into the company's plant. The applicant claims the value of its physical property to be approximately \$19,500.00, and while the Commission has not passed upon this valuation, it is apparent from this showing that there is a sufficient margin between the value of the property and the company's liabilities to admit of its acceptance for the purposes of this proceeding.

With reference to the issue of the ten shares for which the necessary authorization of the Commission was not secured, the applicant has testified that one of the original holders, F. W. Kirby, is since deceased, and that the Fowler National Bank has since gone out of business and been succeeded by the First National Bank of Fowler. It was also testified that the county records show that the Kirby Distilling Company has succeeded to the former interests of F. W. Kirby, and the First National Bank of Fowler to the former interests of the Fowler National Bank. It is now desired to reissue these two shares, one to the Kirby Distilling Company, the other to the First National Bank of Fowler, the remaining eight shares to be reissued to the original holders.

It appears that the purposes for which the applicant proposes to use the money to be derived from the proposed issue of fifty additional shares are for proper capital purposes. It appears also that the ten shares which were unlawfully issued were issued in ignorance of the provisions of the Public Utilities Act requiring Commission authorization therefor, and that the purposes for which the proceeds received from their sale were used were also for proper capital purposes. I am accordingly of the opinion that the application should be granted and recommend the following order:

ORDER.

Fowler Independent Telephone Company having applied to this Commission for authority to issue fifty (50) shares of its capital stock at fifty dollars (\$50.00) per share for purposes of making additions and betterments to plant and for installing additional telephones from time to time as needed, and for authority to issue ten (10) shares of its capital stock at fifty dollars (\$50.00) per share in lieu of a like number of shares heretofore unlawfully issued, and a hearing having been held, and it appearing to the Commission that the purposes for which the applicant proposes to use the proceeds from the sale of the fifty new

shares now proposed to be issued, and that the purposes for which the proceeds which were secured from the sale of the ten shares heretofore unlawfully issued were used are not reasonably chargeable to operating expenses or to income,

It is hereby ordered that Fowler Independent Telephone Company be and it hereby is permitted to issue fifty (50) shares of its capital stock at fifty dollars (\$50.00) per share for purposes of making additions and betterments to plant and for installing additional telephones under the following conditions and not otherwise, to wit:

(1) The applicant may issue the fifty (50) shares of its capital stock of the value of fifty dollars (\$50.00) per share, herein authorized, only after it shall have filed with the Commission a statement or statements satisfactory to the Commission showing in detail the additions and betterments for which the money proposed to be secured from the sale of the said fifty (50) shares of stock will be used.

(2) The applicant shall realize not less than fifty dollars (\$50.00) per share for all stock authorized under this order.

(3) The applicant shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock herein authorized to be issued, and on or before the twenty-fifth day of each month it shall make verified report to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which, in so far as applicable, is made a part of this order.

And it is hereby further ordered that Fowler Independent Telephone Company be and it hereby is permitted to issue ten (10) shares of its capital stock upon the following conditions and not otherwise, to wit:

(1) Said stock herein authorized shall be issued to the following persons in substitution of an equal number of shares shown to have been illegally issued, as follows:

| Date Issued | Certificate number | Issued to | Number shares | Amount |
|---------------|--------------------|------------------------------------|---------------|---------|
| May 20, 1912 | 403 | C. H. Williams | 1 | \$50 00 |
| June 19, 1912 | 406 | Chas. Church | 1 | 50 00 |
| June 19, 1912 | 407 | Kirby Distilling Company..... | 1 | 50 00 |
| Oct. 23, 1912 | 411 | H. C. Neel | 1 | 50 00 |
| Dec. 31, 1912 | 413 | W. T. Gibson | 1 | 50 00 |
| Mar. 7, 1913 | 422 | First National Bank of Fowler..... | 1 | 50 00 |
| May 6, 1913 | 429 | T. B. Runciman | 1 | 50 00 |
| Oct. 24, 1913 | 435 | M. M. Kazarian | 1 | 50 00 |
| June 8, 1914 | 455 | N. L. Stickles..... | 1 | 50 00 |
| Mar. 4, 1914 | 458 | Manuel F. Pimental..... | 1 | 50 00 |

(2) Before said stock shall be issued the certificates of stock in lieu of which said stock is hereby authorized to be issued shall be called in by the applicant and cancelled.

The authority herein granted shall apply only to such stock as shall be issued on or before March 31, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of May, 1915.

DECISION No. 2396.

ALEXIS EHRLMAN

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 763.

Decided May 17, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant having, on May 17, 1915, requested that the complaint in this proceeding be dismissed without prejudice,

It is hereby ordered that the complaint in this proceeding be, and the same hereby is, dismissed without prejudice.

Dated at San Francisco, California, this 17th day of May, 1915.

DECISION No. 2397.

IN THE MATTER OF THE INVESTIGATION BY THE RAILROAD COMMISSION UPON ITS OWN INITIATIVE INTO THE FINANCIAL CONDITION OF THE UNITED RAILROADS OF SAN FRANCISCO.

Case No. 610.

Decided May 17, 1915.

Certain financial irregularities appearing in connection with an application of respondent herein to issue equipment trust notes, the Commission initiated an investigation into its entire financial condition, giving particular attention to depreciation, surplus and sinking funds, with the following results:

That the board of directors of respondent authorized the president thereof to draw from the funds of such utility such sums as he might desire and that such resolution was ratified at a subsequent stockholders' meeting. That under this system a total of \$1,096,110.70 was withdrawn from the treasury of respondent, the majority of which was invested in an entirely foreign enterprise, no accounting being made of the balance.

That respondent's directors voted to reduce its outstanding stock \$1,200,000.00 par value, which action was consented to by the United Railways Investment Company, provided that their total investment remained the same upon their books. That the par value of this stock reduction was credited to profit and loss, as were also certain sinking fund reserves, thus creating a surplus, when in reality respondent was operating under a deficit. That the utility of the nature of respondent, operating under short term franchises, should maintain its sinking fund requirements from earnings and such funds should not be accredited to surplus.

That respondent has never maintained a proper depreciation account. The company estimating an annual allowance under this head of \$239,790.24, while Engineers Sachse and Arnold have estimated approximately \$851,000.00 and \$681,000.00, respectively, or 10 per cent and 8 per cent of gross revenues for the fiscal year ending June 30, 1914. That for the present the company should maintain a depreciation reserve of not less than 8 per cent nor more than 10 per cent of gross revenues.

Held, Respondent directed to establish an annual depreciation account of \$550,000.00 until June 30, 1917, or until the further order of this Commission, such sum to accrue from respondent's annual earnings, \$300,000.00 per annum thereof to be placed in a bank or banks to be expended only for additions, extensions and improvements to service under the direction of this Commission, the balance to be used for customary purposes as to which depreciation funds are usually employed. Respondent to submit within thirty days, for the approval of the Commission, a proposed alteration in its system of bookkeeping so as to show its true financial condition.

Jesse W. Lilienthal and *William M. Abbott*, for United Railroads of San Francisco.

Frederick B. Van Vorst, for California Railway and Power Company.

E. J. McCutchen, for certain bondholders of United Railroads of San Francisco.

REPORT OF THE COMMISSION.

On May 28, 1914, this Commission issued an order instituting on its own motion, an investigation into the entire financial condition of the United Railroads of San Francisco, with a view to making such order or orders as might be necessary to insure the fulfillment of the obligations of this corporation to the public.

The order calling this investigation was as follows:

ORDER.

WHEREAS, It appears that the following sums were taken from the funds of United Railroads of San Francisco, to wit:

| | | |
|-------------|-------|--------------|
| March, 1913 | ----- | \$577,815 70 |
| April, 1913 | ----- | 160,000 00 |
| May, 1913 | ----- | 158,900 00 |
| June, 1913 | ----- | 180,000 00 |
| July, 1913 | ----- | 19,400 00 |

and that none of such money was used for or in connection with any of the property or business of United Railroads of San Francisco, and that none of such money has been replaced or restored; and

WHEREAS, It appears that United Railroads of San Francisco was at the time of such withdrawal of money in a financial condi-

tion, and now is in a financial condition such as requires this money to give adequate service to the public and to meet its obligations; and

WHEREAS, It appears that the accounts of the United Railroads of San Francisco are not in a form which truly indicates its financial condition; and

WHEREAS, An inquiry should be made into the matter of the establishment and maintenance of a depreciation account; and

WHEREAS, It appears that the directors of United Railroads of San Francisco should cause to be restored the money taken as aforesaid, or present a plan for the restoration of such moneys; now, therefore,

It is hereby ordered by the Railroad Commission of the State of California that an investigation be instituted on its own motion into the entire financial condition of United Railroads of San Francisco, with a view to making such order or orders as may be necessary to insure the fulfillment of the obligations of United Railroads of San Francisco to the public and its bondholders and other creditors; and that such investigation be set down for hearing before Commissioner Edgerton for the 17th day of July, 1914, at San Francisco, at 10 o'clock a.m.

It is hereby further ordered that the directors of United Railroads of San Francisco either make proof at such hearing of the restoration of the money taken as above described, or present a plan at such hearing for the restoration of such money.

Dated at San Francisco, California, this 28th day of May, 1914.

The necessity for such an investigation became apparent while the Commission had under consideration Application No. 1076, wherein the United Railroads of San Francisco asked for authority to issue car trust certificates of the face value of \$300,000.00.

In Decision No. 1536, dated May 22, 1914, attention was called to the fact that Mr. Patrick Calhoun, former president of United Railroads of San Francisco, had withdrawn from the company's treasury the sum of \$1,096,110.70, and had applied it to purposes foreign to the railway corporation, and that Mr. Jesse W. Lilienthal, upon taking the office of president, had obtained from Mr. Calhoun a promissory note for \$1,096,110.70, payable one day after date, in favor of the railroad company. The note, which was secured by stock of the Solano Irrigated Farms, was subsequently written down in the books of the company as of a value of \$1.00.

Hearings were held on July 20, August 24 and August 28, 1914. Officers and former directors of United Railroads of San Francisco were called as witnesses, as well as officials of the city and county of San Francisco, and employees of the Commission. A memorandum of authorities was submitted by McCutchen, Olney & Willard, as counsel for owners of certain United Railroads of San Francisco bonds, and a brief was filed by Frederick V. Van Vorst on behalf of United Railroads of San Francisco.

The Commission endeavored to ascertain the nature of the authority granted to the president of United Railroads of San Francisco to withdraw funds and the circumstances surrounding the withdrawal of \$1,096,110.70. The Commission inquired into the surplus of United Railroads of San Francisco, giving particular attention to the cancellation of common capital stock to the face value of \$1,200,000.00, and the addition of that amount to surplus; to the method of recording the sinking fund payments; to the matter of proper depreciation charges; to the ability of United Railroads of San Francisco to pay dividends; to the franchise obligations of the company, and in connection therewith, the claim of officials of the city of San Francisco that there is an unfulfilled obligation to pave a large amount of street surface; and generally, to all matters pertaining to the financial condition of this corporation.

It appears that at a special meeting of the directors of United Railroads of San Francisco, held August 16, 1912, this resolution, introduced by Director Ford and seconded by Director Mullally, was unanimously adopted:

“Resolved, That all sums of money hitherto drawn by the president of this company, and all advances hitherto made by him to, or disbursements made on account of, any person or corporation, be and the same are hereby ratified, approved and confirmed; and

Be it further resolved, That the president of this company be and he is hereby authorized to draw such further sum and to make such further advances to, or disbursements on account of, any corporation as he may deem for the best interests of this company.”

At a special meeting of the stockholders, held on August 21, 1912, according to the minutes, special attention was called to the resolution ratifying and approving the drawings of money and disbursements made by the president and authorizing further disbursements by him in the company's interest. Upon motion of Mr. Tirey L. Ford, seconded by Mr. H. V. Willcutt, the stockholders ratified, approved and confirmed the action of the board of directors in adopting the resolution above quoted.

While the evidence does not establish the author of the resolution, it clearly shows that it was not prepared by those who introduced or seconded it, and further establishes that these directors and others as well were practically “dummy directors.”

They sought to justify their action in sponsoring and supporting such a resolution on the ground that it was desired by Mr. Calhoun.

The testimony of Mr. A. M. Dahler, treasurer of United Railroads of San Francisco, shows that ever since the San Francisco fire of 1906, it had been the custom to pay out cash upon the order and receipt

of the president. However, the books show no regular and systematic withdrawal of funds until August, 1912.

It appears that whenever the president desired funds, he sent his representative to the treasurer's office. The representative always called for gold. Upon making the payment, the treasurer would take his receipt. The receipt was placed in the cash box and counted as cash. A note would be made in a memorandum book, such as "Patrick Calhoun, debtor."

Not until the amount of the receipts began to approximate \$1,000,-000.00, according to the testimony, did the treasurer report to the secretary and ask that a voucher be made out and the amount properly entered. In July, 1913, the treasurer, upon the instruction of the accountants, entered the amount in the books.

The testimony of other witnesses shows that the amount withdrawn was carried on the books of the company, first as cash, then as an account receivable and later as a note receivable.

Because the money withdrawn from the treasury of the United Railroads was supposed to have been invested in the properties controlled by Solano Irrigated Farms, a land project in Solano County, California, Mr. Jesse W. Lilienthal was requested to ascertain from the books of that company the amount of money actually put into that project by Mr. Calhoun. At the hearing held August 24, 1914, Mr. Jesse W. Lilienthal submitted this statement:

| | |
|---|----------------|
| Total payments for land at cost (not shown on Solano books) | \$617,608 70 |
| Total cash advanced by Mr. Calhoun (as disclosed by Solano books) | 562,914 00 |
| <hr/> | <hr/> |
| Total | \$1,180,522 70 |
| Advanced by United Railroads of San Francisco | \$1,096,110 70 |
| Advanced by others (estimated) | 292,000 00 |
| <hr/> | <hr/> |
| Total | \$1,388,110 70 |
| <hr/> | <hr/> |
| Unaccounted for | \$207,588 00 |

If this statement is correct, it would indicate that of the \$1,096,110.70 withdrawn from the funds of the United Railroads, \$207,588.00 did not go into the Solano project. This sum of \$207,588.00 remains unaccounted for.

This Commission has no authority to inquire into the financial affairs of other than public utility corporations, nor should it be called upon to proceed into the necessary inquiry to trace the money diverted from United Railroads of San Francisco nor to determine the full legal responsibility for such diversion. Accordingly, the Commission transmitted to the district attorney of the city and county of San Francisco, a transcript of the evidence taken in this proceeding, and this transcript is now in the possession of the district attorney.

The Commission next addressed its attention to the question of the dividends paid by United Railroads of San Francisco. This question involves the reduction of the common capital stock of United Railroads of San Francisco, the surrender of common stock certificates to the par value of \$851,400.00, held by Railroad Power and Development Company, the purpose and method of recording the sinking fund payments, proper depreciation charges and the obligations of United Railroads of San Francisco to its bondholders and creditors and to the public.

The directors of United Railroads of San Francisco at a meeting held December 21, 1908, voted, in view of the capital losses sustained through the earthquake and fire of April, 1906, and through the subsequent strike of its employees, to reduce the common capital stock of the corporation from the par value of \$20,000,000.00 to the par value of \$18,800,000.00.

The stockholders of United Railways Investment Company, the holding company of United Railroads of San Francisco, at a meeting held May 1, 1908, consented to the reduction of the capital stock of United Railroads of San Francisco, in the amount indicated above; provided, such reduction did not reduce the entire capital stock of United Railroads of San Francisco to an amount less than its indebtedness; and provided further, that no reduction be made upon the books of United Railways Investment Company as to the cost of its investment in the stock of United Railroads of San Francisco by reason of such a reduction.

On February 5, 1909, the board of directors of United Railroads of San Francisco adopted this resolution:

WHEREAS, The reduction in the common stock of the United Railroads of San Francisco to the amount of \$1,200,000.00 as authorized by resolution adopted at the special meeting of the directors of this company, held on December 21, 1908, reducing the company's liabilities to that extent, has warranted a credit to profit and loss account of a corresponding amount; and

WHEREAS, The profit and loss account of the company has not heretofore received credit for the reduction of the company's liabilities to the extent of the investments of the various sinking fund reserves of the United Railroads of San Francisco and its subsidiary companies;

Be it resolved, That the controller be, and he hereby is, directed and empowered to enter to the credit of said profit and loss account an amount of \$1,200,000.00 (the par value of the common capital stock cancelled and retired) and a further amount of \$2,096,814.53 (the invested amounts of sinking fund reserves) and to credit profit and loss account in the future, the amount of similar sinking fund investments, as made.

While the books of United Railroads of San Francisco showing the actual entries as authorized by the board of directors are not available, the evidence clearly shows that the profit and loss account was credited with \$1,200,000.00 because of the reduction of the capital stock, and was further credited from time to time with amounts in the sinking fund reserves. Mr. John F. Forbes, resident partner of Haskins & Sells, the firm which audits the books of United Railroads of San Francisco, defended the action of the company on the ground that the surplus or profit and loss account was a mere clearing account. If Mr. Forbes' theory were carried to its logical conclusion, there would be nothing to prevent the board of directors from increasing or decreasing the capital stock of a corporation, and thereupon charging or crediting the amount to profit and loss, and thus there could be created a surplus or deficit at will.

To quote from the evidence:

MR. REYNOLDS: Do you know that this \$1,200,000.00 that you transferred into surplus under your authority was used to pay dividends?

MR. FORBES: No, sir, it was not.

MR. REYNOLDS: How could you have paid dividends if you hadn't had this \$1,200,000.00 in the surplus account?

MR. FORBES: Well, as a matter of fact, there might have been a deficit—indeed, there was a deficit caused by our making this entry; it was necessary in order to get that deficit that something be done, and this stock was reduced.

MR. REYNOLDS: Did you declare dividends—could you have without the \$1,200,000.00 being put into surplus have declared dividends?

MR. FORBES: Why, certainly not.

COMMISSIONER EDGERTON: Then you did pay dividends out of it?

MR. FORBES: No.

It is clear, of course, if the \$1,200,000.00 had not been put into surplus account, the company, on its own showing, would have had a deficit.

The evidence shows that the charges incident to the so-called graft prosecution were charged against a suspense account, the idea being that they were to be assumed by the holding companies. A certain amount, after some opposition, was assumed by the Railroad and Power Development Company, which gave its note or notes for the amount assumed. In settlement of this indebtedness, the Railroad and Power Development Company turned over to United Railroads of San Francisco, common stock held by it to the par value of \$851,400.00. This stock is now in the treasury of United Railroads of San Francisco. Unlike the \$1,200,000.00, it has not been canceled, but is held as live treasury stock. The company, therefore, carries among its assets at

par its own common capital stock in the sum of \$851,400.00 received from a holding company in settlement of account.

Reference has heretofore been made to the action of the board of directors in calling upon the controller to credit the profit and loss account with \$2,096,814.53, the amount alleged to have been in the sinking fund reserve February 5, 1909, and with future sinking fund investments.

In the consolidated statement showing the disposition of surplus, January 1, 1906—June 30, 1914, introduced as evidence by United Railroads of San Francisco, it appears that the surplus account has been credited with the sum of \$4,954,290.12, which sum is said to represent cash invested in securities for sinking fund purposes.

The deed of trust dated June 7, 1902, securing the payment of \$35,275,000.00, 4 per cent twenty-five year sinking fund gold bonds of United Railroads of San Francisco, provides that commencing with the year 1905, and on the first day of January of that year, and on the first day of January in each year thereafter, until all of said bonds, principal and interest shall have been redeemed or paid, there shall be set apart a sum not less than 2 per cent of the gross earnings of United Railroads of San Francisco during the year then next preceding, but in no event to be less than the sum of \$100,000.00. The deed of trust further provides that all surplus earnings in excess of 5 per cent on the common stock shall be reserved and applied as a sinking fund or for the improvement of the property conveyed by the deed of trust. The moneys in the sinking funds shall be used within sixty days, after being deposited with the trustee, in the redemption of bonds issued under this deed of trust or bonds secured by mortgages now existing upon properties acquired by United Railroads of San Francisco.

The deed of trust dated April 2, 1888, securing the payment of \$2,000,000.00 6 per cent thirty-year first mortgage bonds of "The Omnibus Cable Company," requires the company to set apart from the net income for the purposes of a sinking fund the following amounts:

On April 1, 1898, and annually thereafter until April 1, 1902, inclusive, an amount equivalent to 2 per cent of the bonds outstanding;

On April 1, 1903, and annually thereafter until April 1, 1907, inclusive, an amount equivalent to 4 per cent of the bonds outstanding;

On April 1, 1908, and annually thereafter until April 1, 1912, inclusive, an amount equivalent to 6 per cent of the bonds outstanding;

On April 1, 1913, and annually thereafter until April 1, 1918, inclusive, an amount equivalent to 8 per cent of the bonds outstanding.

All sums paid into the sinking fund shall be and remain irrevocably pledged to the redemption and payment of the bonds at their maturity. The amounts paid into the sinking funds shall be invested by the directors in good securities. Unless there is a deficit in the sinking fund, interest or dividends or profits arising from the investment of moneys in the sinking fund need not be added to such fund.

The deed of trust, dated October 27, 1882, securing the payment of \$3,000,000.00 6 per cent thirty-year bonds of "The Market Street Cable Railway Company," required the company, beginning in 1893 and annually thereafter until all bonds are redeemed, to pay out of net income to the trustee for the purpose of creating a sinking fund, a sum equal to \$40,000.00.

The sinking fund payments, required by the deed of trust dated July 12, 1894, securing the payment of \$17,500,000.00 5 per cent thirty year bonds of "Market Street Railway Company," begin September 1, 1918, at which time the company is obliged to pay \$160,000.00 out of net income to the trustee.

Neither the mortgage and deed of trust dated March 1, 1889, securing the payment of \$650,000.00 6 per cent twenty-five year bonds of "The Ferries and Cliff House Railway Company" nor the mortgage and deed of trust dated May 1, 1889, securing the payment of \$1,000,000.00 5 per cent thirty year bonds of "Sutter Street Railway Company" make any provision for sinking funds.

On June 30, 1914, United Railroads of San Francisco, according to its annual report filed with this Commission, had a funded indebtedness as follows:

CALIFORNIA RAILROAD COMMISSION DECISIONS.

| Class of bond or obligation | Term | | Total par value authorized | Total par value outstanding | Total par value not held by respondent corporation | Rate of interest |
|--|---------------|------------------|----------------------------|-----------------------------|--|------------------|
| | Date of issue | Date of maturity | | | | |
| Ferries and Cliff House Railway Company----- | Mar. 1, 1889 | Mar. 1, 1914 | \$650,000 | \$600,000 | \$600,000 | 6% |
| Market Street Cable Railway----- | Oct. 27, 1882 | Jan. 1, 1913 | 3,000,000 | 1,800,000 | 1,800,000 | 6% |
| Omnibus Cable Company----- | Apr. 2, 1888 | Apr. 2, 1918 | 2,000,000 | 2,000,000 | 2,000,000 | 6% |
| Market Street Railway Company----- | July 12, 1884 | Sept. 1, 1924 | 17,500,000 | 7,341,000 | 7,341,000 | 5% |
| Sutter Street Railway Company----- | May 1, 1888 | May 1, 1918 | 1,000,000 | 1,000,000 | 1,000,000 | 5% |
| United Railroads of San Francisco----- | June 7, 1902 | Apr. 1, 1927 | 35,275,000 | 23,904,000 | 23,882,000 | 4% |
| Collateral trust bonds----- | Feb. 1, 1906 | Feb. 1, 1916 | 1,000,000 | 1,000,000 | 1,000,000 | 5% |
| Equipment trust obligations----- | | | 700,000 | 440,000 | 440,000 | 6% |
| Totals ----- | | | \$61,125,000 | \$38,085,000 | \$37,763,000 | |

The report shows United Railroads of San Francisco 4 per cent bonds to the face value of \$171,000.00 in the treasury and \$151,000.00 in sinking or other funds.

In view of the specific sinking fund provisions of the several deeds of trust, to which reference has been made, and in further view of the fact that this company's principal franchises expire on or before 1929, and that it has a funded indebtedness of \$38,085,000.00 due and payable on or before April 1, 1927, it is not sufficient to say that the public, the bondholders and creditors are not affected by an arrangement or absence of such arrangement to meet the maturing obligations.

We hold that it is the duty of this Commission to consider the financial situation of United Railroads of San Francisco from the point of view of public policy and public interest and not solely from the technical point of view of accounting methods, based on the assumption that the value of the property is equal to the par value of stocks and bonds issued in payment therefor.

While much evidence was introduced in regard to the surplus of United Railroads of San Francisco, a "surplus" as formerly maintained by many corporations was merely a matter of bookkeeping and did not represent accrued profits.

"Surplus," to quote from Franklin K. Lane's opinion in re "Investigation of Advances in Rates by Carriers in Western Trunk Line, Trans-Missouri and Illinois Freight Committee Territories," 20 I. C. C., 307, 332:

"as used in railway accounting, means simply the bookkeeping balance of the profit and loss account which, presuming all other values carried on the books to be true, indicates the excess of assets over liabilities. It is whatever the railroad management chooses to make it, and depends upon the nature of a railroad's capitalization, the policy of the road, with respect to charges for maintenance, the volume of the dividend, and other factors entirely within the directors' control."

The directors of United Railroads of San Francisco held that the sinking fund payments should be credited to surplus, rather than to a sinking fund reserve account, or other account showing the amount of money set aside to retire bonds. This action was defended by Mr. John F. Forbes of Haskins & Sells, on the ground that whenever the company paid to the trustee the amount called for by the sinking fund provisions of the various deeds of trust, it might consider its indebtedness decreased by the amount of such payment, and increase its surplus accordingly.

Mr. Reynolds, auditor for this Commission, is of the opinion that the company should show in a separate reserve account the amount of money appropriated to meet sinking fund payments to retire bonds.

He takes the position that if such payments are later allowed to appear in surplus account, the corporation through the declaration of dividends out of this surplus, would ostensibly assume to use the same money twice; first, to retire bonds for sinking fund purposes; and second, to pay dividends on the stock. He holds that a corporation of this nature, holding under short term franchises, with deeds of trust and sinking fund provisions such as are here found, should provide for its sinking fund requirements wholly out of earnings. To the extent that these sinking fund requirements are a charge against earnings, Mr. Reynolds holds that they should not later appear in surplus. As he would have the entire sinking fund obligations of this corporation met from earnings, his proposal would not permit of the appearance of sinking fund reserves in any form in the surplus account.

In accordance with this view, and taking into account other items which Mr. Reynolds believes have been improperly carried into surplus account, he has prepared a statement which shows a deficit of this corporation as of June 30, 1913, in the sum of \$4,880,471.48.

In the preparation of this data, Mr. Reynolds was handicapped by the absence of the company's books, a matter which has been previously commented upon by this Commission, and a matter for which no adequate explanation has been, as yet, forthcoming. While we can only refer to previous statements which have been made by this Commission in regard to the methods of this corporation, and particularly in regard to the absence of its books of account, we are not prepared at this time to determine what is a true balance sheet for this corporation. We are persuaded, however, of the correctness of Mr. Reynolds' view that the sinking fund payments of this particular corporation should be taken from its current earnings, and further that many items have been improperly carried into the surplus account of this utility.

The classification of accounts for electric railways as prescribed by the Interstate Commerce Commission, by the Railroad Commission of the State of California, and by the state railroad and public utility commissions generally throughout the United States, clearly contemplates that these sinking fund appropriations and sinking fund reserves should not be carried into the corporate surplus from which dividends might be declared. This rule is particularly applicable to this company because this is a corporation operating upon limited franchises, heavily overburdened with debt. It faces the situation of competition by a municipally owned street railway system. More than any other class of corporation it is under the necessity, if it would do justice to the public and to its creditors, to reduce as far as may be the burdens of its fixed obligations.

In its annual report to this Commission for the year ending June 30, 1914, United Railroads of San Francisco reports a surplus of \$1,018,632.81. As previously stated, this surplus account has been credited in the sum of \$4,954,290.12, representing sinking fund reserves. If these reserves had not been transferred into surplus, this company would show a deficit on this single accounting change amounting to approximately \$4,000,000.00. How much greater this deficit might be if other items credited to surplus were otherwise charged, it is not now necessary to determine. Hereafter, if it be necessary, a finding will be rendered as to the proper changes to be made in the accounts of this corporation. For the present, it is sufficient to determine that the surplus reported by this applicant was not a true surplus. Instead we find that there is a deficit. The amount of this deficit we shall not now determine, but shall leave that also to a supplemental order, if such should appear to be necessary.

While a physical valuation has not been made of the properties of the corporation under discussion, there is no doubt that the indebtedness of this utility is clearly out of proportion to the value of its physical properties. Its total indebtedness is approximately \$41,700,000.00. It owns, according to its annual report for the year ended June 30, 1914, a total of 136.573 miles of single and 111.183 miles of second track and 9.417 miles of yards and sidings. While the comparison is not by any means complete, the case of the Los Angeles Railway Corporation supplies sufficient corroboration to justify the assumption that the value of the physical properties of United Railroads would not measure up to the amount of its indebtedness. The Los Angeles Railway Corporation, including City Railway Company of Los Angeles, with an owned mileage of 363.86 miles, estimated the depreciated reproduction cost of its physical properties as of December 1, 1913, at \$24,579,566.00. Surely, United Railroads of San Francisco, with a mileage of 257.173 miles can not, within reason, be expected to show a valuation within approximate approach of its indebtedness.

It is a fact, however, that this corporation has been able to show a heavy earning power. The company has submitted earning statements for the fiscal years 1912, 1913, and 1914, as follows:

| Item | 1912 | 1913 | 1914 |
|--|----------------|----------------|----------------|
| Operating revenue | \$8,173,113 91 | \$8,589,247 56 | \$8,515,893 73 |
| Operating expenses | 4,256,739 36 | 4,705,828 61 | 4,722,736 86 |
| Net operating revenue..... | \$3,916,374 55 | \$3,883,418 95 | \$3,793,156 87 |
| <i>Miscellaneous Income.</i> | | | |
| Interest on deposits..... | \$6,367 93 | \$3,157 59 | \$110 79 |
| Income from securities owned..... | 35,688 49 | 47,682 65 | 47,172 05 |
| Other miscellaneous income..... | 21,426 08 | 7,685 94 | 3,232 19 |
| Total miscellaneous income..... | \$63,482 50 | \$58,526 18 | \$50,515 03 |
| Gross income | \$3,979,857 05 | \$3,941,945 13 | \$3,843,671 90 |
| <i>Deductions from Income.</i> | | | |
| Taxes, total | \$402,000 00 | \$453,200 00 | \$503,800 00 |
| Interest on funded debt..... | \$1,950,731 65 | \$1,817,178 58 | \$1,719,964 65 |
| Interest on floating debt..... | 49,162 21 | 150,487 53 | 206,294 35 |
| Total interest | \$1,999,893 86 | \$1,967,666 11 | \$1,926,259 00 |
| Rents for leased lines..... | 84,600 00 | 77,300 00 | 126,600 00 |
| Other deductions from income..... | | | 5,572 38 |
| Total deductions | \$2,486,493 86 | \$2,498,166 11 | \$2,562,232 38 |
| Net income | \$1,493,363 19 | \$1,443,779 02 | \$1,281,439 52 |
| <i>Disposition of Net Income.</i> | | | |
| Reserve for mortgage sinking funds..... | \$387,462 76 | \$105,720 97 | \$382,134 50 |
| Dividends—7 per cent on \$5,000,000.00 first preferred stock | 350,000 00 | 350,000 00 | 350,000 00 |
| Dividends—1 per cent on \$20,000,000.00 preferred stock | | 200,000 00 | |
| Totals | \$737,462 76 | \$955,720 97 | \$732,134 50 |
| Surplus for year..... | \$755,900 43 | \$488,058 05 | \$549,305 02 |
| Surplus beginning year..... | 292,212 58 | 623,798 68 | 462,139 24 |
| Surplus before making profit and loss adjustments | \$1,048,113 01 | \$1,111,856 73 | \$1,011,444 26 |

United Railroads of San Francisco submitted the following statement showing profit and loss adjustments for the fiscal years ending June 20, 1912, 1913, and 1914:

| Item | 1912 | 1913 | 1914 |
|---|-----------------------|-----------------------|-----------------------|
| Surplus before making profit and loss adjustments ----- | \$1,048,113 01 | \$1,111,856 73 | \$1,011,444 26 |
| PROFIT AND LOSS ADJUSTMENTS— | | | |
| <i>Credits.</i> | | | |
| Profit invested for sinking fund ----- | \$927,935 70 | \$661,010 21 | \$233,292 50 |
| Profit from sale of United Railways Investment Company debenture ----- | | | 21,900 00 |
| Settlement of account with Lassen Heights Land Company ----- | | | 22,208 50 |
| Refund on 1906 taxes ----- | | | 20,899 29 |
| Closing out reserve for Park and Ocean Railroad Company mortgage ----- | | | 7,490 85 |
| Cancellation of United Railroads bonds purchased below par ----- | | 391,046 00 | |
| Cancellation of coupon interest previously accrued ----- | | 25,083 33 | |
| Closing out reserve for Market Street Cable Railway Company mortgage ----- | | 76,887 67 | |
| Adjustment of cables account ----- | | 4,000 00 | |
| Accounts payable written off ----- | 1,515 39 | | |
| Miscellaneous ----- | 129 50 | 875 26 | 611 87 |
| Total credits ----- | \$929,580 59 | \$1,158,902 47 | \$306,403 01 |
| <i>Debits.</i> | | | |
| Depreciation (general) ----- | \$675,673 30 | \$257,581 46 | \$255,201 75 |
| Accounts receivable ----- | 1,122 23 | 1,076,711 70 | 19,399 00 |
| Depreciation of material and supplies ----- | 30,000 00 | | 13,260 91 |
| Writing down value of sundry securities ----- | | | 11,352 80 |
| Profits from cancellation of bonds applied against A. & B. ----- | | 391,046 00 | |
| Commission ----- | | 45,000 00 | |
| Reduction to nominal value third installment to P. P. I. E. ----- | | 29,999 00 | |
| Settlement of account with A. Baum ----- | | 8,281 80 | |
| Settlement of claim with United Railways Investment Company ----- | 98,913 60 | | |
| Renewals, depreciation and contingencies ----- | 427,507 79 | | |
| Discount on sales of Market Street Railway Company 5 per cent bonds ----- | 70,679 00 | | |
| Reduction to nominal value matured portion of subscription to P. P. I. E. ----- | 49,999 00 | | |
| Total debits ----- | \$1,353,894 92 | \$1,808,619 96 | \$299,214 46 |
| Credited or debited to profit and loss account ----- | 424,314 33 | 649,717 49 | 7,188 55 |
| Surplus at close of year ----- | \$623,798 68 | \$462,139 24 | \$1,018,632 81 |

The company submitted a statement showing the payment of dividends from 1909 to date as follows:

| | |
|--|------------------|
| For the fiscal year ending June 30, 1909, 7 per cent on \$5,000,000.00 | |
| first preferred stock----- | \$350,000 00 |
| For the fiscal year ending June 30, 1910, 7 per cent on \$5,000,000.00 | |
| first preferred stock----- | 350,000 00 |
| For the fiscal year ending June 30, 1911, 7 per cent on \$5,000,000.00 | |
| first preferred stock----- | 350,000 00 |
| For the fiscal year ending June 30, 1912, 7 per cent on \$5,000,000.00 | |
| first preferred stock----- | 350,000 00 |
| For the fiscal year ending June 30, 1913— | |
| 7 per cent on \$5,000,000.00 first preferred stock----- | \$350,000 00 |
| 1 per cent on \$20,000,000.00 preferred stock----- | 200,000 00 |
| | <hr/> 550,000 00 |
| For the fiscal year ending June 30, 1914, 7 per cent on \$5,000,000.00 | |
| first preferred stock----- | 350,000 00 |

At the hearing in this matter, the report of Bion J. Arnold to the city of San Francisco, dated March 31, 1913, was submitted in evidence. Mr. Bion J. Arnold, in his report on the "Improvement and Development of the Transportation Facilities of San Francisco," in speaking of the dividends paid by United Railroads of San Francisco, says:

The company's financial difficulties of 1907 and 1908 were undoubtedly increased by its heavy dividend declarations, especially in the first quarter of 1906, when a total of \$1,020,000.00 was declared. In addition, 2 per cent, or \$400,000.00, was paid after the fire, a total of \$1,420,000.00 for the fiscal year, or 7.1 per cent on the preferred stock. The net surplus for 1906 was \$877,146.00, which would have enabled the company to declare a dividend of 4.38 per cent on the preferred, so that approximately 39 per cent of the dividends must necessarily have been paid from accumulated surplus. This practice has also been followed in 1908 and 1910.

By reason of this relation between surplus and dividends, no attempt has been made in this report to indicate true profit and loss for the various fiscal years. For the period 1903 to 1911, inclusive, it appears that the total dividends as reported by the company aggregate over \$860,000.00 more than the cumulative surplus from operation, considering depreciation as an actual cash reserve out of income. This means that unless corresponding credits were properly available for the stockholders from sources other than actual income, these excess dividend declarations could not have been founded upon true earning capacity of the operating property.

In its annual report for the year ending June 30, 1914, United Railroads of San Francisco submitted the following statement of assets and liabilities:

| | Item | Total |
|---|----------------|-----------------|
| ASSETS. | | |
| Cost of road..... | | \$82,419,471 63 |
| Cost of equipment..... | | |
| General expenditures..... | | |
| Expenses for road and equipment and general expenses—leased line..... | | |
| Equipment purchased under trust..... | | 940,468 40 |
| Other Permanent Investments. | | |
| Stocks owned..... | | 855,378 40 |
| Funded debt owned..... | | 863,184 57 |
| Cash and Current Assets. | | |
| Cash..... | \$60,975 97 | |
| Bills receivable..... | 16,512 41 | |
| Accounts receivable..... | 175,075 14 | |
| Materials and supplies..... | 635,426 28 | |
| Prepaid accounts..... | 14,656 06 | |
| | | 902,645 86 |
| Unadjusted account..... | | 90,955 70 |
| Other Assets. | | |
| Sinking and other special funds..... | | 2,074,930 37 |
| Grand total..... | | \$88,147,334 93 |
| LIABILITIES. | | |
| Capital stock—first preferred..... | | \$5,000,000 00 |
| Capital stock—preferred..... | | 20,000,000 00 |
| Capital stock—common..... | | 18,800,000 00 |
| Funded debt..... | | 38,085,000 00 |
| Current Liabilities. | | |
| Loans and notes payable..... | \$2,895,120 00 | |
| Accounts payable..... | 546,839 79 | |
| Matured interest on funded debt unpaid..... | 42,610 00 | |
| Payrolls..... | 151,009 45 | |
| Unclaimed wages..... | 6,458 00 | |
| Advertising contract deposit..... | 50,000 00 | |
| Employees' deposit..... | 10,789 75 | |
| Unredeemed tickets..... | 7,221 55 | |
| | | 3,710,048 54 |
| Accrued Liabilities. | | |
| Taxes accrued and not yet due..... | | \$220,093 35 |
| Interest on funded debt accrued and not yet due..... | | 425,056 65 |
| Miscellaneous interest accrued and not yet due..... | | 26,587 33 |
| Accrued for sinking funds not yet due..... | | 80,402 11 |
| Reserves..... | | 781,514 14 |
| Surplus..... | | 1,018,632 81 |
| Grand total..... | | \$88,147,334 93 |

The question of depreciation charges is also involved in this investigation. It is essential to distinguish clearly between depreciation and sinking fund. The former has for its primary object the replacement

or amortization of property due to age, use, expiration, inadequacy and obsolescence, etc., whereas the purpose of the latter is to retire, pay and discharge indebtedness.

Without a valuation of the property of United Railroads of San Francisco, it is impossible to determine exactly the proper charges incident to depreciation.

The company submitted a statement showing that from January 1, 1906, to June 30, 1914, it had charged on account of depreciation the following amounts:

| | |
|---|----------------|
| For reserves for depreciation, renewals, and contingencies..... | \$2,678,588 42 |
| For buildings and materials..... | 800,568 69 |
| For loss on equipment sold..... | 43,407 00 |
| For loss on Panama-Pacific Exposition stock..... | 79,998 00 |
| For loss on temporary frequency changes..... | 16,413 67 |
| For loss account earthquake, fire and strike..... | 1,646,472 06 |
| Total | \$5,265,447 84 |

The depreciation charges during the past three years have been charged against profit and loss, rather than operating expenses.

It is alleged that at the present time the company has a depreciation reserve of \$450,000.00.

Mr. Black, vice-president and general manager of United Railroads of San Francisco, maintains that the only elements of the company's property as to which a depreciation account may properly be insisted on are rolling stock and buildings. The cost of repairing track and paving are charged directly to operating expenses. He contends that these charges can not be taken care of through a depreciation reserve. On the rolling stock, said to cost \$4,725,689.00, Mr. Black would charge 4 per cent depreciation, or \$189,027.56, per annum. On buildings, the reproduction cost of which is given at \$1,219,317.00, he would charge 4 per cent depreciation, or \$48,762.68. On miscellaneous equipment valued at \$50,000.00, he would charge 4 per cent, or \$2,000.00. The total depreciation charges amount to \$239,790.24.

Mr. Sachse, chief engineer of this Commission, stated that in his opinion United Railroads of San Francisco should charge 10 per cent of its gross operating revenue to depreciation and increase its maintenance charges 25 per cent. Mr. Sachse took occasion to state that his report was preliminary and that no accurate figures could be given without a valuation.

Evidence was introduced showing that since 1902 United Railroads of San Francisco had reconstructed 189.47 miles out of a total mileage of 247.38 miles of single and second track in the city and county of San Francisco.

The company's Exhibit No. 7 shows that on or before July 1, 1918, it plans to reconstruct 61 miles of track, at an approximate cost of \$1,522,989.00, of which \$527,075.00 will be charged to betterments

because of increase in weight of rail, increase in cost of paving, etc., and \$995,914.00 to operating.

This does not contemplate any additional or new lines. All improvements are to be made out of income. Should the proposed plan be executed, it would mean an annual expenditure of \$507,663.00.

The company's Exhibit No. 9 shows total area of streets to be repaired to be 451,650 square feet, involving a total cost of \$32,025.00.

Mr. D. J. McCoy, superintendent of street repairs for the city of San Francisco, testified that paving remained to be done at an estimated cost of \$1,000,000.00.

Referring to the company's sinking funds, Mr. Bion J. Arnold, in his report on "Transportation Facilities of San Francisco," on page 81, says:

The present sinking fund requirements will probably retire \$13,000,000.00 out of \$40,000,000.00 now outstanding, leaving \$27,000,000.00 unfunded debt.

Mr. Arnold, in further reference to the same matter, says:

The sinking fund on U. R. R. 4's was established on about the usual basis for long-term franchise, but is correspondingly inadequate for short terms unless franchise extensions could practically be guaranteed. Under existing conditions, a sinking fund retiring nearly 50 per cent of the debt is needed—sufficient at least to retire the fixed property in the streets that would either revert to the city at maturity or be sold on a salvage basis. The U. R. R. 4's sinking fund will retire only about one-third of the entire issue at maturity, assuming its investment entirely in these same bonds at market value. The retirement by this method is exceedingly advantageous, as the present price secures about a 6 per cent interest rate to the credit of the fund. The sinking fund on the Market Street Ry. 5's (1924) can only retire about one-sixth of the issue at maturity, providing there be no further increase in outstanding bonds of this series, \$10,000,000.00 of which are yet unissued.

In the matter of an adequate depreciation account, Mr. Black, general manager of United Railroads of San Francisco, estimated that the annual allowance therefor should be \$239,790.24. Mr. Richard Sachse, chief engineer, employed by this Commission, expressed the opinion upon his preliminary investigation that the depreciation should be 10 per cent of gross revenues, which would amount for the fiscal year ending June 30, 1914, in round numbers, to \$851,000.00. Mr. Bion J. Arnold recommends that until the property is reclaimed from its run-down condition, a depreciation reserve annuity of 8 per cent of the gross revenues should be established, which for the fiscal year ending June 30, 1914, would amount to \$681,000.00. In this connection Mr. Arnold says:

An average depreciation reserve of 3 per cent has been maintained since the consolidation. None was charged off between 1906

and 1909. The rate 6 per cent of the gross earnings per annum now established (1910, 1911) may be fair for the property under normal conditions, if enough is spent upon maintenance, and should be continued on a cumulative basis. But a higher reserve will be necessary for some years—probably 8 per cent—until the property is reclaimed from its present run-down condition. A depreciation and renewals reserve should be always available as cash or quick assets, and charged against income as a more or less fixed element of the operating account.

For the present purposes, this company should maintain a depreciation reserve not less than that recommended by Mr. Arnold and not above that recommended by Mr. Sachse of this Commission.

For the fiscal year ending June 30, 1914, the company set aside a general depreciation reserve of \$255,000.00. The necessities of the present situation would be met if the company maintained hereafter for a period of three years a depreciation reserve of \$550,000.00. This figure is arrived at by taking the amount of the depreciation reserve set up by the company for the last fiscal year in the sum of approximately \$250,000.00 and adding thereto an additional sum of \$300,000.00.

The company should be authorized to devote \$250,000.00 of this depreciation reserve to the purposes to which it has been the practice to devote such reserve. The balance of \$300,000.00 per year should be set up in a special fund in a bank to be designated by the company, the money in this fund thereafter to be expended at the suggestion of the company with the approval of this Commission either for the purpose of providing improved or additional facilities or extensions. This fund of \$300,000.00 should be set up in toto by June 30th of the year 1915 to cover the current fiscal year. Thereafter it should be set up monthly and a report thereof made regularly to this Commission.

It was stated in the order calling the hearing in this matter that the directors of this company should either restore the \$1,096,110.70, which Mr. Calhoun was permitted to withdraw, or present a plan for the return of this sum or a like amount. At the hearing it was stated that a plan was in embryo which contemplated certain surrenders of stock, but no plan has been formally presented to this Commission.

Those who have charge of the affairs of this corporation should proceed by whatever means may be at hand to compel a restitution, if such be possible. In the absence of such a restitution or the presentation of a plan which will bring about the restoration of the funds, this Commission will not look with favor upon any disbursement by this company in the form of dividends of its stockholders.

Provision is being made herein for a depreciation reserve for a period of three years only. It is the expectation that by the end of the three year period a complete valuation will have been made of this utility, and the Commission will have come into possession of all of the facts

bearing upon the value of this company's properties. It will, therefore, be able either at that time or previous thereto to issue an amended order prescribing a fixed and definite depreciation account to be maintained regularly by this corporation.

With the change of the chief executive of United Railroads of San Francisco has come an altered attitude, which promises hope of lasting improvement. Mr. Jesse W. Lilienthal, recently installed as president of United Railroads, has expressed a desire to co-operate so far as may be to bring about what may be deemed the necessary requirements of public utility service. The particular problem before this utility, however, is financial. For the present, at least, it seems imperative that the funds of this corporation be conserved.

In conformity with the views herein expressed, the following order is adopted:

ORDER.

The Railroad Commission of the State of California having instituted on its own initiative an investigation into the financial condition of the United Railroads of San Francisco, and the order instituting said investigation having stated that the accounts of said United Railroads of San Francisco were not in a form which truly indicated its financial condition, and such order having specified that an inquiry would be made into the matter of the establishment and maintenance of a depreciation account by this company, and a public hearing having been held and the Commission being fully apprised in the premises,

It is hereby found as a fact that the accounts and books of account now kept and maintained by United Railroads of San Francisco do not disclose and state the true financial condition of said company, and in particular said accounts and books of account now set out that said company has a surplus, whereas it is hereby found as a fact that said company has a deficit.

It is hereby further found as a fact that a proper and adequate depreciation account to be set up and carried by United Railroads of San Francisco is the sum of \$550,000.00 per annum.

Basing its order on the foregoing findings of fact and on the further findings of fact set out in the opinion preceding this order,

It is hereby ordered that United Railroads of San Francisco establish a depreciation account amounting to \$550,000.00 per annum until June 30, 1917, or until the further order of this Commission.

It is further ordered that said sum of \$550,000.00 per annum be carried and set up in a depreciation account as aforesaid and shall be set aside and accrued out of the annual earnings of said company. Said depreciation account shall be established so as to show an appropriation from earnings of \$550,000.00 not later than June 30, 1915, and thereafter said depreciation account shall be credited out of earnings with

the sum of \$45,833.33 per month, up to and including June 30, 1917, or until the further order of this Commission. Money accumulated under this order shall be used and expended as follows:

Three hundred thousand dollars per annum of said sum shall be placed in a bank or banks in the State of California on or before July 15, 1915, and thereafter \$45,833.33 per month shall be placed in a bank or banks in the State of California, said money to be placed in said bank or banks within fifteen days after the last day of each month. Said sum of \$300,000.00 per annum shall be used and expended only—

(a) For the construction of additional facilities or extensions and for the fulfilling of franchise obligations of said company.

(b) For the improvement of service.

Said sum of \$300,000.00 per annum, or any part thereof, shall be expended only after United Railroads of San Francisco has submitted a statement to the Railroad Commission of the State of California setting out the purposes for which it is proposed to make expenditures and has received the Commission's authorization approving such expenditures.

Of the sum of \$550,000.00 per annum hereby ordered to be carried in the depreciation account, \$250,000.00 per annum thereof may be used by United Railroads of San Francisco without the further order of the Commission for the customary purposes to which its funds heretofore accumulated for depreciation have been used.

It is further ordered that United Railroads of San Francisco shall, within thirty days from the date of this order, present to the Commission for its approval a proposed change and correction of its books of account, which shall show and reflect the true financial condition of said company as to deficit.

Dated at San Francisco, California, this 17th day of May, 1915.

Decisions Nos. 2398 and 2399, grade crossings; not printed. See end of volume.

DECISION NO. 2400.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, AGENT PACIFIC FREIGHT TARIFF BUREAU, IN THE NAME AND ON BEHALF OF CERTAIN RAILROADS TO AMEND INDIVIDUAL RULES AND REGULATIONS GOVERNING THE TRANSPORTATION OF LIVE STOCK.

Application No. 1522.

Decided May 17, 1915.

Applicant, on behalf of various common carriers within the State of California, applies for permission to establish a rate of \$2.50 for single deck and \$4.00 for double deck cars when it is necessary to disinfect such cars after the transportation of live stock. A number of protests are filed by shippers of live stock.

Held, When a carrier is directed by health, or other civic authorities, to perform certain acts in the interest of shippers, such shippers should be required to stand the expenses incident thereto, though no more than the actual cost of such service. Applicant authorized to establish a rate for disinfecting of \$2.00 for single and \$3.00 for double deck cars.

George D. Squires, for Southern Pacific Company.

Allan P. Matthew, for Western Pacific Railway Company.

E. W. Camp, for Atchison, Topeka and Santa Fe Railway Company.

J. O. Bracken, for H. Moffatt Company; *J. G. Johnson*; *Knierr, Allan & Pyle*; *Grayson Owen & Company*; *Golden West Meat Company*; *Sales & Chicorp* and *Roth*; *Blum Packing Company*.

REPORT OF THE COMMISSION.

LOVELAND, Commissioner.

This is an application filed January 21, 1915, under section 63 (a) of the Public Utilities Act, seeking authority to amend the rules and regulations governing the transportation of live stock and the rates to be charged for cleaning and disinfecting live stock cars, as follows:

“When under the requirements of the United States Department of Agriculture, or when because of federal, state, county or municipal regulations, it is necessary to cleanse and disinfect cars which have been loaded, or are to be loaded, with live stock, the following charges will be assessed for the service and collected from the shipper or consignee of the live stock that made necessary the cleaning and disinfecting of the cars in which loaded:

| | |
|-------------------------------|--------|
| For each single-deck car..... | \$2 50 |
| For each double-deck car..... | 4 00 |

NOTE.—Agents must tack a card on the car showing at which point and on what date car was cleaned and disinfected.

The proposed rule and charges were protested by certain interested parties subsequent to the filing of the application and in consequence the matter was set for hearing, which was regularly held in the office of the Commission on May 6, 1915.

In justification of the proposed tariff provision applicant contends that when the state, county or municipal authorities require carriers to clean and disinfect cars, in which diseased live stock has been transported, carriers should not be called upon to assume the expense of cleaning and disinfecting such equipment, but that such expense should be borne by the owner of the diseased live stock that made the cleaning and disinfecting necessary.

Protestants urge that no necessity exists at present for the incorporation of the provision in applicant's schedule, therefore the matter should be deferred until such time as occasion demands.

While the records disclose that no immediate necessity exists for establishing this provision, no harm will result in granting the application, which will permit the carriers to meet any emergency likely to arise. At this time the Commission desires to express itself to the

effect that when the federal, state, county or municipal authorities, by proclamation or otherwise, issue a regulation, such as is herein comprehended, for the purpose of lessening the spread of or exterminating a contagious disease, the public generally should willingly lend its assistance. Furthermore, when a carrier, complying with a lawful regulation, is called upon to disinfect cars by reason of diseased live stock, the carrier being in no way responsible, it should be permitted to make a reasonable charge therefor, and such charge should be paid by the owner of the diseased live stock transported.

Exhibits were introduced by certain representatives of the lines, members of the Pacific Freight Tariff Bureau, in support of the charge for cleaning and disinfecting the cars.

Southern Pacific Company's Exhibit No. 1 shows the average cost of disinfecting a single deck car in California to be \$3.75. In ascertaining this average cost a record was kept by the carrier at certain specific points on its line of the various items of expense entering into the cost, consisting of material used in disinfecting, labor performed, detention of car, switching and supervision. The cost per car at each point, so ascertained, was totaled and divided by the total number of cars treated at all of the points, thus giving the average per car. If the average cost of \$3.75, so found, is to be seriously considered, it would appear that the proposed charge of \$2.50 per single-deck car is inadequate.

An analysis of the exhibit indicates that at the eleven points shown the cost per car ranges from 60 cents to \$9.03, and that the amount under each head, except detention, varies materially. Under head of "material" it is found that the cost of the disinfecting material at Roseville and Los Angeles was 12 cents per car, while at Hanford it was \$1.00; at Brawley \$2.08 and \$6.00; at Colton 57 cents and \$3.55. Witness, in explaining this wide difference of the cost of material, stated that the greater costs were due to the fact that the cars to be treated were urgently needed and the material had to be purchased locally instead of awaiting its receipt from carrier's supply department. This being true, these excessive costs should not be considered in this statement. Cost of labor ranges from 17 cents at Los Angeles to \$2.50 at El Centro, and certain of the larger labor costs should be eliminated for the reason that "outside labor" was employed to clean and disinfect cars in order to expedite movement of the equipment.

Respecting the switching cost: It is no doubt true that at some points it is necessary to switch these cars a slightly greater distance than those used in transporting other traffic, and when this additional service is performed the expense incident thereto and no other should be included in arriving at the average cost per car.

Supervision cost appears to have been figured at 10 per cent of the total cost of all items other than supervision. This method of determining cost of supervision appears faulty, particularly so with respect to the cost of material and labor. The material used at Brawley, in one instance, cost \$6.00, consequently 60 cents (10 per cent) is charged to supervision. Had the material been obtained from the same source as that used at El Centro the supervision cost would have been but 2 cents. A greater amount should not be charged to supervision because an article cost more or a laborer is paid a higher wage at one point than at another.

Western Pacific Railway Company's Exhibit No. 1 indicates that the estimated cost of disinfecting a single-deck car is \$2.03 and for a double-deck \$3.95. Exhibit No. 2 shows the cost to be from \$7.06 up, depending upon the distance the empty car is hauled.

The Atchison, Topeka and Santa Fe Railway Company's estimate is substantially the same as the Southern Pacific Company's.

The foregoing evidence regarding the cost of cleaning and disinfecting cars is more or less at variance. Certain items of expense, such as the extraordinary cost of material and labor, per diem charge and expense incident to switching, are included. The Commission can not accept the higher cost of material and labor as a proper charge for the reason that when it is furnished by carrier's supply department its cost is materially lower, also had the labor been performed by a regular employee it likewise would have cost less.

The transportation charge covers switching within certain defined limits, therefore it would be improper to add a charge for this service unless some additional switching is required, and then only the expense incident to the additional haul.

A careful scrutiny of the exhibits submitted leads me to the conclusion that a reasonable charge for this service would be \$2.00 per single-deck car and \$3.00 for a double-deck car.

I recommend the following form of order:

ORDER.

Application having been made by F. W. Gomph, agent for the Pacific Freight Tariff Bureau, for authority to amend the rules and regulations governing the transportation of live stock and the rate to be charged for cleaning and disinfecting live stock cars, and a public hearing having been held and a full investigation of the matters and things involved having been had and the Commission being fully apprised in the premises,

It is hereby ordered that F. W. Gomph, agent for the Pacific Freight Tariff Bureau, be hereby authorized to publish and file the following

rule and regulations governing the transportation of live stock and the rates to be charged for cleaning and disinfecting live stock cars:

Charges for Cleaning and Disinfecting Live Stock Cars.

When because of state, county or municipal regulations it is necessary to clean and disinfect cars which have been loaded, or cars to be loaded, with live stock, the following charges will be assessed for the service and collected from the owner of the live stock that made necessary the cleaning and disinfecting of the car in which loaded:

| | |
|-------------------------------|--------|
| For each single-deck car..... | \$2 00 |
| For each double-deck car..... | 3 00 |

NOTE.—Agents must tack a card on the car showing at what point and on what date car was cleaned and disinfected.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of May, 1915.

DECISION No. 2401.

THE CABRILLO CLUB ET AL.

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 752.

Decided May 18, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing that all matters complained of in the matter entitled as above are covered by Case No. 796, *The Cabrillo Club et al. vs. The Atchison, Topeka and Santa Fe Railway Company*,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 18th day of May, 1915.

Decision No. 2402, grade crossing, not printed. See end of volume.

DECISION No. 2403.

IN THE MATTER OF THE REORGANIZATION OF UNITED LIGHT AND
POWER COMPANY AND SUBSIDIARY COMPANIES.

Application No. 1542.

Decided May 20, 1915.

Original order herein having provided that Great Western Power Company acquire \$471,000.00 face value of bonds of Consolidated Electric Company, such bonds to be placed in a special sinking fund, and also providing for the establishment of a sinking fund of 1 per cent annually, beginning 1920, and such provisions not being satisfactory to applicants, they apply for a modification of such order which would permit the bonds to be acquired by the Great Western Power Company be subject to the first mortgage and deed of trust of that company only and that the sinking fund clause be eliminated entirely.

Held, application to amend as regards the placing of bonds to be acquired subject to trust deed of Great Western Power Company instead of in a special sinking fund, granted. As regards sinking fund provisions, such portion of the application will be permitted; provided, Great Western Power Company shall execute a guarantee of the bonds of Consolidated Electric Company to the end that should payment thereon be defaulted, such bonds shall be a lien upon the properties of the Great Western Power Company, subject to all existing liens.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

SUPPLEMENTAL OPINION.

On May 10, 1915, this Commission rendered its Decision No. 2359 in the above entitled matter. The Commission authorized the transfer of the properties of United Light and Power Company (of California) and its subsidiary corporations, and of United Light and Power Company (of New Jersey), to Consolidated Electric Company; the issue of stocks and bonds by Consolidated Electric Company and the guarantee of the bonds of the Consolidated Electric Company by Great Western Power Company.

The applicants in this proceeding submitted an estimate of the present value of the properties of the United Light and Power Company (of California) and subsidiary corporations to be transferred, amounting to the sum of \$1,972,894.36. This Commission found that certain substantial reductions should be made in this appraisal, but used the figure for the purpose of comparison with the face value of bonds proposed to be issued by Consolidated Electric Company.

The application proposed that in exchange for these properties, estimated by the applicants to be of the value of \$1,972,894.36, Consolidated Electric Company should issue \$2,593,000.00 of bonds, the payment of principal and interest on the bonds to be guaranteed by Great Western Power Company.

It was provided in the agreements under the plan as submitted to the Commission that Great Western Power Company should acquire forthwith \$71,000.00 of bonds of Consolidated Electric Company, and within the next three years an additional \$400,000.00 of these bonds, making a total of \$471,000.00 of bonds to be purchased by Great Western Power Company.

The order of the Commission provided that these \$471,000.00 of bonds to be purchased by Great Western Power Company should be held as a sinking fund. The outstanding bonds of Consolidated Electric Company would thus have been reduced to \$2,122,000.00 within a period of three years. The order provided further that in order to establish a normal relationship between the outstanding bonds and the value of the property, a sinking fund should be provided, beginning 1920, which should retire annually 1 per cent of the bonds of the Consolidated Electric Company.

On May 15, 1915, United Light and Power Company (of California) and its subsidiaries filed a supplemental application asking for a modification of the order herein. To this application was appended this statement:

“The modification suggested above by the petitioners will be satisfactory to us.

GREAT WESTERN POWER COMPANY,
By Guy C. Earl, Attorney.
CONSOLIDATED ELECTRIC COMPANY,
By Guy C. Earl, Attorney.”

The modification requested may be summarized as follows:

1. That the provision for the 1 per cent sinking fund of outstanding bonds of Consolidated Electric Company be eliminated.
2. That neither Consolidated Electric Company nor Great Western Power Company be held responsible for the settlement of the claims of the creditors of the United Light and Power Company (of California) and subsidiary corporations or United Light and Power Company (of New Jersey).
3. That the provision that the \$71,000.00 of Consolidated Electric Company bond be purchased by Great Western Power Company be placed in a sinking fund, be modified so that the \$71,000.00 of bonds shall be placed under and made subject to the provisions of the mortgage and deed of trust of Great Western Power Company.
4. That the provision that the \$400,000.00 of Consolidated Electric Company bonds to be purchased by Great Western Power Company be placed in a sinking fund, be modified so that the \$400,000.00 of bonds shall be placed under and made subject to the provisions of the mortgage and deed of trust of Great Western Power Company.

As the order of this Commission originally provided that the \$471,000.00 of bonds to be purchased by Great Western Power Company should be placed with a trustee, it would apparently serve the same purpose if these bonds were placed with the trustee under the mortgage of Great Western Power Company.

The applicants' request for a modification of the order so that neither Consolidated Electric Company nor Great Western Power Company should be responsible for the payment of the creditors of United Light and Power Company (of California) and subsidiary corporations, and United Light and Power Company (of New Jersey), appears to have been made under a misapprehension of this Commission's order, as there is nothing therein which would bind Consolidated Electric Company or Great Western Power Company to any greater extent than they have already voluntarily bound themselves.

This leaves for consideration only that portion of the Commission's order which provides for the establishment of a sinking fund of 1 per cent annually, beginning in 1920, for the gradual reduction of the bonds of Consolidated Electric Company. No objection has been raised against this provision on the ground that it is an undue or unusual sinking fund, but the applicants apparently take the position that these bonds should not be subject to any sinking fund whatsoever, even though on their own figures the proposed issue of securities is materially in excess of their estimate of the value of the properties. Moreover, there is nothing in the order which would hereafter prevent the funding of the sinking fund in such a way that it would not become a charge against the earnings of Consolidated Electric Company or Great Western Power Company.

While this Commission at times authorizes an issue of securities to better a situation in cases in which it would not have been willing to make the authorization as an original proposition, it certainly can not be consistently urged that this Commission should thereafter permit the situation again to grow worse rather than to grow better, and it certainly would grow worse in this case as the properties depreciate.

I am willing to recommend, therefore, that the modifications as to the \$471,000.00 of bonds of Consolidated Electric Company be made in the order so that these \$471,000.00 of bonds may come under and be subject to the provisions of the first mortgage or deed of trust of Great Western Power Company, as requested by the applicants, and thereafter be sold or otherwise dealt with as may be authorized by this Commission upon application therefor.

I am further willing to recommend as an alternative that the \$471,000.00 of bonds be merely placed under and made subject to the provisions of the first mortgage and deed of trust of Great Western Power Company, subject only to said mortgage and deed of trust, and

that the 1 per cent sinking fund be eliminated, on the condition that Great Western Power Company make its guarantee of the principal and interest of the bonds of Consolidated Electric Company in such form that the Consolidated Electric Company bondholders, in case of default in the payment of interest or principal, will have recourse to the properties of Great Western Power Company, subject to all existing liens or liens hereafter to be placed on said properties of Great Western Power Company. If the applicants desire to avail themselves of an order in conformity with the suggestions in this paragraph, they may make supplemental application therefor.

I submit the following form of supplemental order:

SUPPLEMENTAL ORDER.

United Light and Power Company (of California), Equitable Light and Power Company, Consumers Light and Power Company, Southside Light and Power Company, Central Oakland Light and Power Company, United Light and Power Company (of New Jersey), Great Western Power Company, and Consolidated Electric Company, having made application for a modification of the order in this Commission's Decision No. 2359, as stated in the foregoing opinion, and good cause appearing,

It is hereby ordered that Decision No. 2359 of this Commission heretofore rendered upon this Application No. 1542 be and it is hereby modified and amended as follows:

(1) Page 39, paragraph "c" of the original typewritten decision, now reading as follows:

"(c) Seventy-one thousand dollars face value of bonds to be issued to Great Western Power Company in part consideration for the guarantee by said Great Western Power Company and more specifically to provide an equitable discount at which Great Western Power Company shall repurchase \$400,000.00 of bonds herein authorized to be issued; provided, the \$71,000.00 of bonds herein authorized to be issued to Great Western Power Company shall be held by Great Western Power Company in a special fund which shall constitute a special sinking fund, and the bonds placed therein shall be canceled; or provided, that Great Western Power Company shall place said \$71,000.00 of bonds with the trustee under the mortgage to be executed by Consolidated Electric Company to be held by said trustee as a special sinking fund";

is hereby amended to read as follows:

"(c) Seventy-one thousand dollars face value of bonds to be issued to Great Western Power Company in part consideration for the guarantee by Great Western Power Company and more specifically to provide an equitable discount at which Great Western Power Company shall repurchase \$400,000.00 of bonds herein authorized to be issued; provided, that the \$71,000.00 of bonds herein authorized to be issued to Great Western Power Company shall come under and be subject to the provisions of the first

mortgage or deed of trust of Great Western Power Company, and thereafter to be sold or otherwise dealt with as may be authorized by this Commission upon application therefor."

It is further ordered that the last paragraph of said order, on page 39, extending to page 40, of the original typewritten decision, reading as follows:

"It is further ordered that Great Western Power Company be granted authority and it is hereby granted authority to purchase \$400,000.00 face value of bonds of Consolidated Electric Company from E. W. Wilson, or his nominees, in accordance with an agreement between said Consolidated Electric Company and said E. W. Wilson, filed with the application herein and marked Exhibit No. 6, on the condition that said \$400,000.00 of bonds when purchased shall be held by Great Western Power Company in a special fund, as a sinking fund, and that such bonds when placed in said special sinking fund shall be canceled, or on the condition that Great Western Power Company shall place said \$400,000.00 of bonds when purchased with the trustee under the mortgage to be executed by Consolidated Electric Company to secure the payment of its bonds, said \$400,000.00 of bonds to be held in a special sinking fund by said trustee";

be amended and modified to read as follows:

"It is further ordered that Great Western Power Company be granted authority and it is hereby granted authority to purchase \$400,000.00 face value of bonds of Consolidated Electric Company from E. W. Wilson, or his nominees, in accordance with an agreement between said Consolidated Electric Company and said E. W. Wilson, filed with the application herein and marked Exhibit No. 6, on the condition that said \$400,000.00 of bonds when purchased shall come under and be subject to the provisions of the first mortgage or deed of trust of Great Western Power Company, and thereafter be sold or otherwise dealt with as may be authorized by this Commission upon application therefor."

It is further ordered that paragraph numbered "3," on page 42 of the original typewritten decision, reading as follows:

"Great Western Power Company shall execute an indenture with the trustee under the deed of trust securing the bonds to be issued by Consolidated Electric Company, under the terms of which Great Western Power Company shall obligate itself to purchase bonds of Consolidated Electric Company as follows:

One hundred thousand dollars face value to be purchased upon the execution and delivery of the deed conveying the properties heretofore referred to from E. W. Wilson to Consolidated Electric Company;

One hundred thousand dollars face value to be purchased within twelve months after said conveyance;

One hundred thousand dollars face value to be purchased within two years after said conveyance;

One hundred thousand dollars face value to be purchased within three years after said conveyance;

Said bonds, when purchased, to be held by Great Western Power Company in a special fund as a sinking fund, and to be cancelled when placed in said sinking fund, or said bonds when purchased to be placed with the trustee, heretofore referred to, under the mortgage and to be held by said trustee as a special sinking fund,"

be amended and modified and it is hereby amended and modified to read as follows:

"Great Western Power Company shall execute an indenture with the trustee under the deed of trust securing the bonds to be issued by Consolidated Electric Company, under the terms of which Great Western Power Company shall obligate itself to purchase bonds of Consolidated Electric Company as follows:

One hundred thousand dollars face value to be purchased upon the execution and delivery of the deed conveying the properties heretofore referred to from E. W. Wilson to Consolidated Electric Company;

One hundred thousand dollars face value to be purchased within twelve months after said conveyance;

One hundred thousand dollars face value to be purchased within two years after said conveyance;

One hundred thousand dollars face value to be purchased within three years after said conveyance;

Said bonds, when purchased by Great Western Power Company, to be subject to the provisions of the first mortgage or deed of trust of Great Western Power Company, and thereafter be sold or otherwise dealt with as may be authorized by this Commission upon application therefor."

It is further ordered that all of the conditions provided in this Commission's order of May 10, 1915 (Decision No. 2359), in the above entitled matter, not in conflict with the supplemental order herein, shall remain in full force and effect.

The foregoing supplemental opinion and order are hereby approved and ordered filed as the supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of May, 1915.

DECISION No. 2404.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO ISSUE ITS COMMON CAPITAL STOCK IN THE MANNER AND FOR THE PURPOSES SPECIFIED THEREIN.

Application No. 1633.

Decided May 20, 1915.

W. B. Bosley and C. P. Cutten, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner*.

FIRST SUPPLEMENTAL ORDER.

In its Decision No. 2385, rendered on May 12, 1915, in the above entitled application, this Commission authorized the Pacific Gas and Electric Company to issue 19,266 shares of its common stock upon certain conditions set forth in said decision. It is provided, in paragraph 3 in the order in said decision, as follows:

“The stock herein authorized to be issued shall be issued only after the applicant shall have adjusted its books of account and particularly in regard to applicant’s depreciation account in a manner satisfactory to the Commission.”

It is provided, in paragraph 4 of the order in said decision, as follows:

“The stock herein authorized to be issued shall be issued only after the applicant shall have presented in writing to this Commission a statement to the effect that the authorization herein given shall not be used as a basis to claim a recognition or approval or a finding of value or any value of the assets of this corporation for a determination of proper rates to be charged by this applicant, nor for a determination of such other issues as may arise before this Commission or other public tribunal in connection with the affairs of this applicant.”

It appearing that said applicant, Pacific Gas and Electric Company, has adjusted its books of account and particularly its depreciation account in a manner satisfactory to this Commission;

And it further appearing that said applicant, Pacific Gas and Electric Company, has presented in writing to this Commission a statement as required by said paragraph 4 of the order in said decision.

It is hereby found as a fact that the above quoted provisions of the order contained in said decision have been complied with and said stock may now be issued for the purposes and upon the terms and conditions provided in said Decision No. 2385.

The foregoing findings are hereby approved and ordered filed as the findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of May, 1915.

DECISION No. 2405.

IN THE MATTER OF THE APPLICATION OF JANSS COMPANY TO SELL
A WATER PLANT AND SYSTEM TO BELVEDERE WATER COM-
PANY AND OF BELVEDERE WATER COMPANY TO ISSUE STOCK.

Application No. 1603.

Decided May 21, 1915.

Janss Water Company, desiring to separate its utility business from its real estate business, organizes the Belvedere Water Company and applies for permission to transfer its water system to such company for its entire capital stock of the par value of \$100,000.00. Application granted, provided that such transfer shall not be advanced as a reason for altering the rates of the water company.

S. M. Haskins, for Applicants.

REPORT OF THE COMMISSION.

DEVLIN, Commissioner.

This is an application involving the sale and transfer of a water utility plant and system owned by Janss Company to Belvedere Water Company and for said Belvedere Water Company to issue common capital stock to the par value of \$100,000.00.

Janss Company is engaged primarily in the business of acquiring, improving, subdividing and selling real estate. In the endeavor to dispose of certain real estate holdings in a territory known as Belvedere, adjoining the northeastern portion of the city of Los Angeles, the Janss Company found it necessary to install a water plant and system. Since the enactment of the Public Utilities Act, real estate firms have found it advantageous to divorce the public utility business transacted by them from their real estate business. To accomplish this end, Janss Company has caused the organization of Belvedere Water Company. The water company has an authorized capital stock issue of \$100,000.00, divided into 1,000 shares of the par value of \$100.00 each. It is proposed to issue all of the stock save such shares as may be necessary to qualify directors of Janss Company, in payment for property, enumerated in the bill of sale, Exhibit "B," attached to the application, as follows:

First—All those certain lots, pieces or parcels of land in the county of Los Angeles, State of California, particularly described as follows, to wit:

1. Lots three (3), four (4), and five (5) of block "A," of the Laguna tract, as per map recorded in Book 12, page 173 of Maps, Records of Los Angeles County.

2. Lot seventeen (17), block forty (40), of E. S. Field's Occidental Heights tract, as per map recorded in Book 15, pages 99 and 100 of Miscellaneous Records of Los Angeles County.

3. The west fifty (50) feet of lot eleven (11), block "C," Wellington Heights tract, subdivision No. 1, as per map recorded in Book 5, page 7 of Maps, Records of Los Angeles County.

4. Lot ten (10), block "J," of the Janss tract, as per map recorded in Book 15, pages 38 and 39 of Maps, Records of Los Angeles County.

5. Lot one (1), block "G," of the Janss tract, as per map recorded in Book 15, pages 38 and 39 of Maps, Records of Los Angeles County.

6. Lot eight (8), of tract 2553, as per map recorded in Book 26, page 1 of Maps, Records of Los Angeles County.

Second—The water plant and water distributing system, together with all personal property of every kind and description belonging or appertaining thereto, or used in connection therewith, heretofore operated by Janss Company, and situated within that certain territory in said county of Los Angeles known as Belvedere.

The water system, on January 1, 1915, had 2,736 services attached to its thirty-two miles of distribution pipe. The water is obtained from five wells scattered over the various parts of Belvedere.

Exhibit "A" attached to this application contains an estimated reproduction cost of the water system amounting to \$204,615.91 and a present value amounting to \$173,543.63. Mr. Clark, of the hydraulic engineering department of this Commission, made an examination of the property to be transferred and estimates the present value at \$110,411.00. Mr. Clark in his value has not included water rights, appraised by the company at \$55,000.00. In view of the fact that applicants prepared Exhibit "A" merely for the purposes of the stock issue and in further view of the conditions found in the order, an exact finding as to the value of the property to be transferred, becomes unnecessary.

The reports on file with this Commission show for the years ending December 31, 1913 and 1914, earnings and expenses as follows:

| | 1913 | | 1914 | |
|-----------------------------|-------------|-------------|-------------|-------------|
| | Item | Total | Item | Total |
| Operating revenues | | \$39,961 74 | | \$45,533 93 |
| Commercial earnings | \$37,615 01 | | \$42,535 85 | |
| Profit on connections, etc. | 2,316 73 | | 2,998 13 | |
| Operating expenses | | 29,635 28 | | 64,319 40 |
| Pumping expenses | 10,558 63 | | 10,179 00 | |
| Distribution expenses | 3,064 48 | | 4,674 88 | |
| Commercial expenses | 4,016 58 | | 3,890 62 | |
| General expenses | 4,339 61 | | 4,852 58 | |
| Taxes | 854 63 | | 959 05 | |
| Depreciation | 6,801 35 | | 39,763 27 | |
| Surplus for year | | 10,326 46 | | |
| Loss for year | | | | 18,785 47 |

The depreciation charge for 1914 includes \$32,282.82, representing depreciation accruals up to December 31, 1913, said to have been charged in error to Janss Company. The depreciation charge applicable to 1914 amounts to \$7,480.45. After making the proper adjustment, I find that the total operating expenses for 1914 amount to \$32,036.85, and the surplus for the year to \$13,497.35, as compared with \$10,326.46 in 1913.

I submit herewith the following form of order:

ORDER.

Janss Company having applied to sell and Belvedere Water Company to purchase a certain water plant and system hereinafter more specifically described, and Belvedere Water Company having applied to issue all its capital stock, except such shares as may be necessary to qualify directors, in payment for said property, and a hearing having been held, and the Commission being fully apprised in the premises, and it appearing that the stock herein asked to be issued is not in whole or in part reasonably chargeable to operating expenses or to income;

The Commission hereby finds as a fact that public convenience and necessity will be served by permitting the transfer of the water properties of Janss Company to Belvedere Water Company; and basing its order upon the foregoing findings of fact in the opinion and order,

It is hereby ordered that Janss Company be given authority and it is hereby given authority to sell and Belvedere Water Company to purchase the following property described in Exhibit "B":

First—All those certain lots, pieces or parcels of land in the county of Los Angeles, State of California, particularly described as follows, to wit:

(1) Lots three (3), four (4), and five (5) of block "A," of the Laguna tract, as per map recorded in Book 12, page 173 of Maps, Records of Los Angeles County.

(2) Lot seventeen (17), block forty (40), of E. S. Field's Occidental Heights tract, as per map recorded in Book 15, pages 99 and 100 of Miscellaneous Records of Los Angeles County.

(3) The west fifty (50) feet of lot eleven (11), block "C," Wellington Heights tract, subdivision No. 1, as per map recorded in Book 5, page 7 of Maps, Records of Los Angeles County.

(4) Lot ten (10), block "J," of the Janss tract, as per map recorded in Book 15, pages 38 and 39 of Maps, Records of Los Angeles County.

(5) Lot one (1), block "G," of the Janss tract, as per map recorded in Book 15, pages 38 and 39 of Maps, Records of Los Angeles County.

(6) Lot eight (8), of tract 2553, as per map recorded in Book 26, page 1 of Maps, Records of Los Angeles County.

Second—The water plant and water distributing system, together with all personal property of every kind and description belonging

or appertaining thereto, or used in connection therewith, heretofore operated by Janss Company, and situated within that certain territory in said county of Los Angeles known as Belvedere.

It is further ordered that Belvedere Water Company be granted authority and is hereby granted authority to issue 995 shares of its capital stock of the par value of \$100.00 each, to said Janss Company in payment for said property.

It is hereby further ordered that Belvedere Water Company be granted authority and is hereby granted authority to issue one share of stock of the par value of \$100.00 to each of its five directors.

The foregoing authority is granted upon the following conditions, and not otherwise:

(a) The value of \$173,543.63 presented as an appraised value of the property herein authorized to be sold and purchased, or the purchase price herein authorized to be paid, shall not be binding upon this Commission or any other rate fixing body for rate fixing purposes or otherwise.

(b) The fact of this exchange in ownership of the property shall not be used for the purpose of increasing or changing the rates for water delivered by Belvedere Water Company from the system it is herein authorized to purchase.

(c) The stock to be issued and delivered by Belvedere Water Company to Janss Company shall not be issued and delivered until such time as Belvedere Water Company has secured a good and sufficient deed to the property to be transferred to it by said Janss Company.

(d) The applicants hereto shall report to this Commission when the stock herein authorized is issued and the property transferred to Belvedere Water Company.

(e) This order shall apply only to such stock as may be issued on or before June 20, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of May, 1915.

DECISION No. 2406.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR PERMISSION TO CONSTRUCT A SPUR TRACK AT GRADE IN AND ALONG SPEAR STREET, OVER AND ACROSS HOWARD, FOLSOM AND HARRISON STREETS AND OVER AND ACROSS THE TRACKS OF THE UNITED RAILROADS OF SAN FRANCISCO AT THE INTERSECTION OF SAID SPEAR STREET WITH HOWARD, FOLSOM AND HARRISON STREETS, IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.

Application No. 1624.

Decided May 21, 1915.

Santa Fe Railway Company applies for permission to construct a spur track along Spear street, crossing Howard, Folsom and Harrison streets and the double tracks of the United Railroads on each of the three streets named, and though such spur is a public necessity and should be constructed, applicant being unable to come to an agreement with United Railroads as to three certain clauses in the conditions under which such crossing shall be constructed, a hearing is held at which the disputed points are reviewed and the following conclusions reached:

Held, That the Santa Fe Railway Company should bear entire cost of maintenance of paving along its tracks, including the crossings with tracks of United Railroads Company, as the movement of heavy freight cars will materially lessen the life thereof; that the probability of maintaining a flagman or crossing gates at these crossings is too remote, considering the speed and stoppage restrictions, to apportion the cost of such maintenance at this time; that this Commission is not the proper authority to adjudicate or apportion damage claims, such matters resting entirely with the civil courts; application granted with modification of disputed clauses as outlined.

E. W. Camp, for Applicant.

W. M. Abbott and *Charles N. Black*, for United Railroads of San Francisco.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

The spur track which it is proposed to construct under this application enters Spear street south of Harrison and follows the center of Spear street from a point near the center of Harrison to a point about halfway between Howard and Folsom streets, where it swings to the west side of the street, and ends about 50 feet south of the south line of Mission street. It will cross Howard, Folsom and Harrison streets and will cross a double track line of the United Railroads on each of these three streets. The franchise for the construction of this spur track was secured from the city and county of San Francisco by Orville C. Pratt, Jr., J. A. Folger & Company and the Denman Estate Company, on September 28, 1914. This franchise was thereafter assigned to the applicant and the application was accompanied by a copy both of the franchise and of the assignment.

The applicant was unable to come to an agreement with the United Railroads regarding the terms upon which the tracks of that company should be crossed and a hearing was held in regard to the matter on May 10, 1915, at which all interested parties were represented.

There seems to be no doubt that this spur track, with its consequent crossings, is needed. The industries located along Spear street are at present unable to secure spur track service and the franchise was secured and the spur track is desired by them to save the expense and inconvenience of handling by teams. The United Railroads made no objection to the application being granted, their position being that the terms upon which the crossings of their tracks should be made should be those which they choose to impose and which were covered in the agreement. Counsel for the United Railroads argued that applicant should sign the agreement submitted to it without exception or a condemnation suit would be necessary. It is not at all clear to me that there would be cause for such proceedings in this matter, but it is not necessary to discuss that phase of the situation, since it is plain that the Commission must first decide that the crossings may be made and designate the point and manner of the crossings, together with the terms of their installation, before the courts can determine the amount of compensation to be paid.

The agreement previously mentioned covers in full the terms upon which the crossings are to be installed; the terms of their operation, maintenance and protection, and it is acceptable to the Santa Fe except for three clauses which appear in it and which it will be necessary to discuss. The first of these clauses (Clause 2) to which applicant objects, reads as follows:

“The parties of the second part, for themselves, their heirs, successors and assigns, hereby agree to install and maintain the paving between the rails of the spur track and two feet outside of the rails in a manner acceptable to the authorities of the city and county of San Francisco.”

It is the contention of counsel for the Santa Fe that this paving is now maintained by the United Railroads, that after construction of the spur track across the tracks of the United Railroads his company will replace this paving in good condition and that the United Railroads will find themselves put to no more expense in this regard than they were previous to the construction of the spur track. Counsel for the United Railroads says, on the other hand, that the operation of locomotives and heavy freight equipment across the track intersections will considerably shorten the life of the pavement and that it is no more than fair that applicant should pay for the maintaining of that pavement after the spur track is completed. This is not a matter involving much expense, but I am inclined to agree with the attorney

of the United Railroads that this paving should be maintained by the applicant company, and I see no objection to this clause as it now appears in the agreement.

Clause 6, herewith quoted, is the second clause in the contract concerning which the two companies failed to agree.

“It is further understood and agreed between the parties hereto that if at any time in the future proper governmental authorities, by reason of the installation of said crossings, require flagmen to be stationed at any of the said crossings or lights or gates to be installed and maintained at the track or tracks of either party or both parties hereto at said crossings, then the cost of the wages of said flagmen and the cost of installation, maintenance and operation of said lights and gates shall be borne solely by the parties of the second part, their heirs, successors and assigns, who shall also comply with all regulations now in force or hereafter passed and adopted by the governmental authorities.”

The operation along this spur track will at no time be carried on at a speed exceeding five miles per hour and such operation as takes place over it is confined by ordinance to the hours between 6 p.m. and 7 a.m. Mr. Black, on behalf of the United Railroads, stated that he considered the operations over these crossings would be safe if all trains and cars on the spur track were brought to a full stop before crossing the intersections, and “flagged” across, and if operation on the United Railroads were conditioned upon the stopping of all cars immediately before reaching the crossings and not passing over them until the motorman had satisfied himself that there was no train approaching along the spur track and that he could safely do so. The officials of the Santa Fe agreed that such operation over crossings of this character would be comparatively safe, and I am likewise of this opinion. In view of this fact, the prospect of any governmental authorities requiring protection at these crossings seems to be very remote, and a discussion as to who should stand the expense of such protection as may be ordered seems to be a discussion of a moot point, rather than a point of practical importance at this time. I think it can be safely assumed if at any time crossing protection is required there will be some regulating body to which the proper division of expense can be referred, and I see no reason for including such a clause in an agreement between the companies at this time.

Clause 7, which follows, was the third and last of the three clauses to which the Santa Fe objected in the agreement submitted to them.

“The parties hereto expressly covenant and agree that, in the event of a collision between their engines, trains or cars at said crossings, or in the event of accident or injury to person or property at or near said crossings, caused by the negligence or misconduct of the employees of any of said parties, or by defective equipment used by any of the said parties, the party whose employees

and/or equipment are alone at fault shall be solely responsible for, and shall settle and pay, the entire loss, damage or injury caused thereby and shall save the other party hereto harmless therefrom. In the event that such collision or damage or injury to person or property is caused by the fault of employees of both the party of the first part and the parties of the second part, their heirs, successors and assigns, or in the event that the cause of such collision or damage or injury to person or property is so concealed that it can not be determined whose employee or employees was or were at fault, or in the event that defective equipment of the party of the first part and the parties of the second part, their heirs, successors and assigns, contributed to said collision, injury or damage, then the amount of the damage shall be borne equally by the parties legally determined to be jointly liable; the object of this provision being to apportion responsibility for damage between joint tort feorsors because of the absence of a right of contribution between them under the law.

“Each party hereto covenants and agrees that it will forever indemnify and save harmless the other party hereto, his or their heirs, successors and assigns from and against any and all claims, demands, liabilities or judgments for or by reason of any damage, loss or injury the risk of which is herein assumed by such party, and also from and against any and all claims, demands, liabilities and judgments on account of any death or injury or damage to persons or property the liability for which is herein assumed by such party; and such party agrees to pay, satisfy and discharge all costs, charges and expenses that may be incurred and any judgments that may be recovered by reason thereof.”

It is not a part of the Commission's duties to award damages in case of accidents on or between carriers. If a collision or accident should occur the courts would determine the responsibility and the amount of damages, and while the Commission has approved agreements, having similar clauses, in contracts previously signed and submitted to it for approval, it can not undertake to include such matters in cases of this character, where it is called upon to decide all the terms under which the tracks of one company shall cross the tracks of another.

I recommend the following form of order:

ORDER.

The Atchison, Topeka and Santa Fe Railway Company, a corporation, having applied to the Commission for permission to construct its spur track at grade in and along Spear street and across Howard, Folsom and Harrison streets, and across the tracks of the United Railroads on those streets, and a public hearing having been held and it appearing that this application should be granted, and that the conditions under which the crossings should be made as outlined in the following order are fair and just to both parties and to the public,

It is hereby ordered that permission be hereby granted The Atchison, Topeka and Santa Fe Railway Company to construct its spur track at

grade in and along Spear street and across Howard, Folsom and Harrison streets and across the tracks of the United Railroads on those streets at the points and in the manner shown more particularly on the map and profile accompanying the application. The construction in and along Spear street and across Howard, Folsom and Harrison streets shall be made in accordance with the permit granted by the board of supervisors of the city and county of San Francisco hereinbefore mentioned.

The construction of this spur track over the tracks of the United Railroads shall be made in accordance with the following terms:

(1) The applicant shall at its own cost and expense install the crossings at the points hereinbefore indicated for the single track steam railroad spur over the tracks of the United Railroads upon the grade of those tracks as now constructed at said crossing points and said crossings shall be in accordance with the plans and specifications to be approved by the United Railroads.

(2) The applicant shall at the crossings install and maintain the paving between the rails of the spur track and to two feet outside of the rails in a manner acceptable to the authorities in the city and county of San Francisco.

(3) The applicant shall properly maintain and keep said crossings in first-class condition and repair without expense or cost of any nature to the United Railroads, and in making such repairs as may be necessary from time to time shall interfere as little as possible with the regular operation of the cars of the United Railroads. If the applicant shall at any time fail to properly maintain said crossings to the satisfaction of the United Railroads, within two days after demand, in writing, has been made upon the applicant by the United Railroads, the United Railroads shall have the right to perform such work as may be necessary to place said crossings in proper condition and repair, and the entire cost and expense of such work shall be borne by the applicant and shall be paid to the United Railroads upon receiving a bill therefor.

(4) No crossing shall be installed nor shall the rails of the United Railroads be interfered with until after notice in writing to the United Railroads and the installation of the crossings shall be so done as to interfere as little as possible with the cars of the United Railroads and in the use and operation of its cars and trains over said crossings. The cars and trains of the United Railroads shall at all times have precedence, and all engines, trains, motors and cars of the applicant shall be brought to a full stop before going over the crossing of the United Railroads, and shall not proceed over them until an employee of applicant shall have gone upon the crossing and ascertained that it is safe to do so. All trains, motors and cars of the United Railroads

before passing over these crossings shall be brought to a full stop in such manner that a good view can be had of the spur track in both directions, and no engine, train, motor or car of the United Railroads shall pass over the crossing until after it has been ascertained that it is safe to do so.

When applicant and the United Railroads are mentioned in this order, the heirs, successors and assigns of these companies are also included.

The Commission reserves the right to make such further orders relative to the location, maintenance, operation and protection of these crossings as to it may appear to be right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of May, 1915.

DECISION No. 2407.

IN THE MATTER OF THE RATE FOR ELECTRIC POWER SUPPLIED BY UNITED LIGHT AND POWER COMPANY TO SAN FRANCISCO, OAKLAND AND SAN JOSE CONSOLIDATED RAILWAY AND SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS.

Case No. 779.

Decided May 21, 1915.

Application of United Light and Power Company for rehearing in the above entitled matter, denied.

REPORT OF THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

On May 19, 1915, United Light and Power Company filed its petition for rehearing herein.

In its order dated May 10, 1915, the Commission found as a fact that the rate paid by San Francisco-Oakland Terminal Railways to United Light and Power Company (of California) for electric energy is unjust and unreasonable and imposes an unfair and unjust burden on San Francisco-Oakland Terminal Railways. The Commission thereupon directed San Francisco-Oakland Terminal Railways and United Light and Power Company (of California) or its successors in interest, to "take up the question of an agreement upon a new, just

and equitable rate to be paid for electric energy supplied by United Light and Power Company (of California) or its successors in interest, to San Francisco-Oakland Terminal Railways." These companies were directed to "report to this Commission on or before May 20, 1915, their conclusions, with a copy of such contract, if any, as they may have executed in the premises, subject to the Railroad Commission's approval." The Commission stated that such supplemental order as may seem appropriate will then be made.

The parties were not ordered to enter into any new contract. The Commission obviously has no power to *compel* the parties to enter into such contract. The parties were directed to take up the question of an agreement upon a new, just and equitable rate. If the parties can agree upon a new rate, and we understand that negotiations to this end are now being actively conducted, it is obviously better for all parties concerned if such agreement be reached, provided that it is reasonable.

The order is by its term a preliminary order and contemplates that such further order as may be appropriate will thereafter be made.

The Commission entertained the hope that San Francisco-Oakland Terminal Railways and Great Western Power Company, which company, under the Commission's authorization heretofore given, is to take over the property of United Light and Power Company (of California), through the instrumentality of a subsidiary corporation, would be able to agree upon a just and reasonable rate, which might then be filed with the Commission as representing their views of the rate which should be established. The Railroad Commission, of course, has the power to establish a just and reasonable rate to be charged for electric energy.

We find no merit in the petition for rehearing. The petition should be denied.

ORDER DENYING PETITION FOR REHEARING.

United Light and Power Company having filed its petition for rehearing herein and due consideration having been given thereto, and the Railroad Commission finding that there is no good reason why a rehearing should be granted herein,

It is hereby ordered that said petition for rehearing be and the same is hereby denied.

Dated at San Francisco, California, this 21st day of May, 1915.

DECISION No. 2408.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO CONSTRUCT AND MAINTAIN AT GRADE A CROSSING WITH THE RAILROAD OF THE SOUTHERN PACIFIC RAILROAD COMPANY AND SOUTHERN PACIFIC COMPANY, AT A POINT ON FOURTH STREET, IN THE CITY OF SANTA ANA, IMMEDIATELY EAST OF BREEDEN STREET.

Application No. 1486.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO CONSTRUCT AND MAINTAIN AT GRADE A CROSSING WITH THE RAILROAD OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AT A POINT ON FOURTH STREET, IN THE CITY OF SANTA ANA, COUNTY OF ORANGE, STATE OF CALIFORNIA, IMMEDIATELY EAST OF BREEDEN STREET.

Application No. 1487.

Decided May 21, 1915.

Applicant applies for permission to cross two tracks of Southern Pacific Company and four tracks of Santa Fe Railway Company with its proposed new line of railway along Fourth street, in the city of Santa Ana, and it appearing that the Santa Fe tracks comprise that company's main line track to San Diego, over which traffic is comparatively heavy, application granted, provided applicant shall construct a first-class standard interlocking device to protect such crossings.

Frank Karr, for Applicant.

W. I. Gilbert, for Southern Pacific Company.

M. W. Reed, for The Atchison, Topeka and Santa Fe Railway Company.

G. H. Scott, for city of Santa Ana.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

These two applications were filed at the same time, and since they propose to cross the tracks of the Southern Pacific and the Santa Fe at points close together on the extension of a new line the applications were heard at the same time.

At the hearing it developed that there were several matters in connection with franchise requirements of the Pacific Electric in Santa Ana which were involved more or less indirectly in these applications, but it does not appear necessary to take those into consideration in this opinion.

The proposed extension of the Pacific Electric, which necessitates these two crossings, will be to the city limits of Santa Ana along Fourth street, and is very much desired by the city, since it will serve a territory now without street railway service. Two tracks of the Southern Pacific and four of the Santa Fe are to be crossed. The tracks of the

Southern Pacific are branch line tracks, where the operation is light. On the Santa Fe, however, one of the tracks is the main line track to San Diego, where train operation is comparatively heavy. The Southern Pacific made no opposition to granting this application and the Santa Fe offered no objections to it provided there were no requirements in the order making it necessary for trains of that company to stop and flag across the track intersection. Without doing this the safety of operation of this crossing will largely be dependent upon the flagman who now operates the crossing gates, and an inspection on the ground has convinced me that it would not be entirely safe to operate these crossings in this manner. I am also convinced that the crossings would not be properly safeguarded even by requiring the trains of all parties to stop before crossing the track intersections. If the crossings were open and good views could be had in all directions of approaching trains, this might not be true, but in this case it is possible to see but a very short distance along the tracks of the Southern Pacific or the Santa Fe in either direction, and I am convinced that the only method of safeguarding these crossings is by the installation of an interlocking plant.

I recommend the following form of order :

ORDER.

Pacific Electric Railway Company, a corporation, having applied to the Commission for permission to construct its track at grade across the tracks of Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company, at points on Fourth street, in the city of Santa Ana, immediately east of Breeden street, and a public hearing having been held, and the Commission being familiar with the conditions on the ground where these proposed crossings are to be constructed,

It is hereby ordered that permission be and the same is hereby granted Pacific Electric Railway Company to construct its track at grade across the tracks of Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company, at the points shown on the maps attached to the applications, subject to the following condition and not otherwise, viz :

Before any trains, engines, motors or cars of applicant shall operate across these crossings applicant shall, at its own expense, install a first-class, standard interlocking plant for the protection of these crossings, said interlocking plant to fulfill the requirements of the Commission's General Order No. 33.

It is hereby further ordered that if the three companies at interest are unable to agree regarding the cost of maintaining and operating this interlocking plant and the terms upon which the interlocking plant

and the crossings shall be installed, the Commission will issue such further orders in this regard as to it may seem to be right and proper.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of May, 1915.

DECISION No. 2409.

IN THE MATTER OF THE APPLICATION OF SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF FIRST MORTGAGE BONDS OF THE FACE VALUE OF EIGHT HUNDRED SIXTY-ONE THOUSAND DOLLARS.

Application No. 1117.

Decided May 21, 1915.

Applicant having heretofore been authorized to issue \$861,000.00 face value of bonds to be sold at not less than 90, and \$311,000.00 face value thereof remaining unsold at the present time, it applies for permission to sell the remainder at not less than 82 and for an extension of the time limit to and including July 31, 1915. Application granted.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

FIRST SUPPLEMENTAL OPINION.

On June 11, 1914 (Decision No. 1579), this Commission authorized San Pedro, Los Angeles and Salt Lake Railroad Company to issue \$861,000.00 of its first mortgage 4 per cent fifty year gold bonds at not less than 90 per cent of their face value in cash plus accrued interest.

In a supplemental application, filed May 18, 1915, applicant represents that prior to August 1, 1914, it succeeded in selling \$550,000.00 face value of the above mentioned bonds to the Oregon Short Line Railroad Company and W. A. Clark and his associates, owners of all of applicant's capital stock and who have heretofore purchased all of its outstanding bonds.

Applicant further represents that since the sale of the above \$550,000.00 of bonds, it has been unable to make any further sales, and it therefore requests this Commission to amend its previous order so as to allow it to dispose of the \$311,000.00 of bonds remaining at 82 per cent of their face value, at which figure they will yield approximately 5 per cent of the purchase price to the buyer.

Applicant further requests that the time within which it may issue said bonds be extended from June 1, 1915, to and including July 1, 1915.

I recommend that this first supplemental application be granted, and submit herewith the following form of order:

FIRST SUPPLEMENTAL ORDER.

San Pedro, Los Angeles and Salt Lake Railroad Company having filed a supplemental application with this Commission under date of May 18, 1915, requesting that the Commission's previous order in the matter herein be amended to permit of the issue of \$311,000.00 of its first mortgage 4 per cent fifty year gold bonds at not less than 82 per cent of their face value plus accrued interest, and having requested further that the time within which it may issue said bonds be extended from June 1, 1915, to and including July 1, 1915, and it appearing that applicant's requests are reasonable and should be granted,

It is hereby ordered that the Commission's previous order in the above entitled matter dated June 11, 1914, be, and it is hereby, amended to permit San Pedro, Los Angeles and Salt Lake Railroad Company to issue \$311,000.00 of its first mortgage 4 per cent fifty year gold bonds at not less than 82 per cent of their face value in cash plus accrued interest.

It is further ordered that the time within which San Pedro, Los Angeles and Salt Lake Railroad Company may issue said bonds be, and it is hereby, extended to and including July 1, 1915.

It is further ordered that the order herein made shall be subject to all of the conditions heretofore imposed in Decision No. 1579, not in conflict with the order herein.

The foregoing first supplemental opinion and order are hereby approved and ordered filed as the first supplemental opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of May, 1915.

DECISION No. 2410.

IN THE MATTER OF THE APPLICATION OF GLENDALE AND MONTROSE RAILWAY FOR AN ORDER AUTHORIZING CHANGE OF RATES.

Application No. 1517.

Decided May 22, 1915.

Glendale and Montrose Railway Company, operating at a considerable annual loss, applies for permission to establish a new schedule of passenger rates embodying increases over the present schedule, and an investigation showing that certain of such increases are justified, a one-way rate of 15 cents and round-trip rate of 25 cents between Glendale, Eagle Rock and Montrose, La Crescenta, and 10 cents between Glendale and La Crescenta, established to

become effective within twenty days. Applicant to concurrently establish a ten and thirty-ride fare of 9 cents one way between Eagle Rock and Montrose, La Crescenta and 10 cents one way between Glendale and Eagle Rock and La Crescenta.

William T. Blakely, for Glendale and Montrose Railway,
Trustin P. Dyer, for Town of La Crescenta.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

These proceedings grew out of an application filed on February 1, 1915, by the Glendale and Montrose Railway seeking authority under section 63 of the Public Utilities Act to increase certain passenger fares on its line.

The following tables set forth the present and proposed fares which are under consideration :

One-way and Round-trip—Present Fares.

| Miles from Eagle Rock (Central avenue) | Miles from Glendale (Broadway and Brand boulevard) | Between and | Glendale (Broadway and Brand boulevard) | | Eagle Rock (Central avenue) | | Glendale (Avenue F) | | Montrose (Honolulu avenue) | |
|---|--|---|--|------------|--------------------------------|------------|------------------------|------------|-------------------------------|------------|
| | | | One-way | Round-trip | One-way | Round-trip | One-way | Round-trip | One-way | Round-trip |
| 2.6 | | Glendale (Broadway and Brand boulevard) | | | | | | | | |
| | 2.6 | Eagle Rock (Central avenue) | \$0 05 | | | | | | | |
| 5.0 | 3.5 | Glendale (Avenue F) | 05 | | \$0 05 | | | | | |
| 6.4 | 4.9 | Montrose (Honolulu avenue) | 10 | \$0 15 | 10 | \$0 15 | \$0 05 | | | |
| 7.6 | 6.2 | La Crescenta (Los Angeles avenue) | 10 | *15 | 10 | *15 | 05 | | \$0 05 | |

*Round-trip limit three days.

One-way and Round-trip—Proposed Fares.

| Miles from Eagle Rock (Central avenue) | Miles from Glendale (Broadway and Brand boulevard) | Between and | Glendale (Broadway and Brand boulevard) | | Eagle Rock (Central avenue) | | Glendale (Avenue F) | | Montrose (Honolulu avenue) | |
|---|--|---|--|------------|--------------------------------|------------|------------------------|------------|-------------------------------|------------|
| | | | One-way | Round-trip | One-way | Round-trip | One-way | Round-trip | One-way | Round-trip |
| 2.6 | | Glendale (Broadway and Brand boulevard) | | | | | | | | |
| | 2.6 | Eagle Rock (Central avenue) | \$0 05 | | | | \$0 05 | | \$0 10 | |
| 5.0 | 3.5 | Glendale (Avenue F) | 05 | | | | 05 | | | |
| 6.4 | 4.9 | Montrose (Honolulu avenue) | 10 | | | | 05 | | | |
| 7.6 | 6.2 | La Crescenta (Los Angeles avenue) | 15 | *\$0 25 | \$0 15 | *\$0 25 | 10 | | 05 | |

*Round-trip limit ten days.

Present Commutation Fares.

| Miles from Eagle Rock (Central avenue) | Miles from Glendale (Broadway and Brand boulevard) | Between and | Glendale (Broadway and Brand boulevard) | | | | Eagle Rock (Central avenue) | | | |
|---|--|----------------------------------|---|------------------|---------|------------------|-----------------------------|------------------|---------|------------------|
| | | | 46-ride | | 52-ride | | 46-ride | | 52-ride | |
| | | | Fare | Rate per ride | Fare | Rate per ride | Fare | Rate per ride | Fare | Rate per ride |
| 5.0 | 3.5 | Glendale (Avenue F) | \$1 15 | \$0 025 | | | \$1 15 | \$0 025 | | |
| 6.4 | 4.9 | Montrose (Honolulu avenue) | 2 30 | 05 | \$3 50 | \$0 0673 | 2 30 | 05 | \$3 50 | \$0 0673 |
| 7.6 | 6.2 | La Orscenta (Los Angeles avenue) | 2 30 | 05 | 3 50 | 0673 | 2 30 | 05 | 3 50 | 0673 |
| | 2.6 | Eagle Rock (Central avenue) | 1 15 | 025 | | | | | | |

Proposed Commutation Fares.

| Miles from Eagle Rock (Central ave.) | Miles from Glendale (Broadway and Brand blvd.) | Between and | Glendale (Broadway and Brand boulevard) | | | | Eagle Rock (Central avenue) | | | |
|--|---|-------------------------------------|---|--------------------------|---------|--------------------------|-----------------------------|--------------------------|---------|--------------------------|
| | | | 10-ride | | 30-ride | | 46-ride | | 52-ride | |
| | | | Fare | Rate per ride (cents) | Fare | Rate per ride (cents) | Fare | Rate per ride (cents) | Fare | Rate per ride (cents) |
| 5.0 | 3.5 | Glendale (Avenue F) | | | | | \$1 15 | 025 | | |
| 6.4 | 4.9 | Montrose (Honolulu avenue) | \$0 90 | 09 | \$2 70 | 09 | 3 10 | 067 | \$4 05 | 0775 |
| 7.6 | 6.2 | La Orscenta (Los Angeles avenue) | 1 00 | 10 | 3 00 | 10 | 3 45 | 075 | 4 40 | 085 |
| | 2.6 | Eagle Rock (Central avenue) | | | | | 1 15 | 025 | | |

To more clearly illustrate the situation, the increases requested are concisely set forth in the succeeding table:

Proposed Increases in Fares.

| Between | And | One-way | Round-trip | 46-ride children's comm. | 52-ride individual comm. |
|---------------------------|--------------------|---------|------------|--------------------------------|--------------------------------|
| Glendale ----- | Montrose ----- | ----- | \$0 05 | \$0 80 | \$0 55 |
| Glendale ----- | La Crescenta ----- | \$0 05 | 10 | 1 15 | 90 |
| Eagle Rock ----- | Montrose ----- | ----- | 05 | 35 | 55 |
| Eagle Rock ----- | La Crescenta ----- | 05 | 10 | 70 | 90 |
| Glendale (Avenue F) ----- | La Crescenta ----- | 05 | ----- | ----- | ----- |

In the application the applicant alleges general inadequacy of revenue as a reason for the increase in fares and presented testimony and exhibits to the effect that, based on actual figures for a period of nine months and estimated figures for three months, the total receipts of the company from all sources for the fiscal year ending June 30, 1915, will amount to about \$17,929.45, while the expenditures, including taxes, insurance, employees' liability, interest on funded debt, and notes, will approximate \$34,119.75, thus leaving a deficit for the year of between \$15,000.00 and \$16,000.00. These figures cover necessary current expenses only, and do not include any allowance for depreciation or betterments.

Applicant further alleges that the capital stock, with the exception of two shares, and all of the bonds, are owned by J. Frank Walters, president of the Glendale and Montrose Railway, that no interest has ever been paid on the bonds and, needless to say, no dividends have ever been declared on the stock; also that during the past eighteen months four miles of the road have been reconstructed, the entire expense thereof being borne by Mr. Walters. Exhibit No. 2 introduced at the hearing shows a floating debt as of March 31, 1915, amounting to \$100,536.53; of this sum \$79,121.57 represents loans advanced by J. Frank Walters and \$10,100.00 the amount due Florence E. Walters on notes, while the balance is owing firms and individuals who are pressing the railway company for settlements.

Mr. Walters testified that if the proposed increase in passenger fares were granted he felt certain of his ability to finance the deficit for a period of years or until the increase in traffic places the property on a self-sustaining basis, stating that additional business was expected partly from freight traffic accruing from new industries to be located along the line of the railway and partly from passenger traffic which will be augmented by the increased population.

It was further testified that negotiations with the Pacific Electric Railway Company are now progressing for the establishment of a through route and joint rates between Los Angeles and La Crescenta, which service would be of great value and convenience to patrons of the Glendale and Montrose Railway who object to the delay and necessity for transferring at Glendale under the present arrangements. In this connection, a witness controlling a stage line operating between a community beyond La Crescenta and Los Angeles testified that these auto stages would be discontinued as soon as through interurban cars were placed in operation, since it was apparent that more satisfactory service at lower fares could be given by an electric line. In view of the foregoing it seems very proper to expect substantial increases in revenue when this through traffic is diverted from the auto stage line to the railway.

A number of witnesses from the town of La Crescenta and vicinity opposed the granting of the application, basing their objections principally upon an agreement or contract made at the time the railway was built to the effect that, in consideration of certain concessions or cash contributions, the fares between Glendale and La Crescenta should not exceed 10 cents for a one-way and 15 cents for a round-trip ticket. The binding effect of such contract, however, need not be discussed in these proceedings as the principle involved was carefully considered in Application No. 738, Glendale and Eagle Rock Ry. Co. (4 Cal. R. C. 322):

“I do not regard it as necessary to dwell at great length on this subject, as this Commission has frequently held, and is supported by authorities in such holding, that it is not bound by contracts of this kind. The duty is laid upon the Commission of seeing that the public gets adequate service at reasonable rates, but a similar obligation is on the Commission to see that public utilities receive fair and just returns for such adequate service.”

A careful analysis of all testimony and exhibits thoroughly convinces me that the Glendale and Montrose Railway can not continue to operate at a loss and that some relief from existing conditions must be granted, otherwise bankruptcy to the present company and a possible suspension of operations will result.

Beyond a doubt, the establishment of a through route and joint rates with the Pacific Electric Railway between Los Angeles and La Crescenta would be of great benefit to the traveling public, and, in the event that such an arrangement can not be perfected informally, I would suggest that the matter be brought before the Commission as outlined in section 33 of the Public Utilities Act for investigation as to public convenience and necessity.

The matter of granting the proposed increases in fares is now to be considered. Applicant's Exhibit No. 1 tends to show that but little demand exists for either children's 46-ride tickets or 52-ride individual commutation tickets, only 38 of the former and 4 of the latter having been sold during the months of January, February and March, 1915, and, since these fares are not unreasonably low and practically no traffic is involved, I recommend that no change be made therein. The proposed one-way and round-trip fares, considering the small volume of business on the Glendale and Montrose Railway, do not appear to be excessive, certainly not when compared with similar fares on short interurban roads in California, especially for equi-distances between certain points in outside territory on the Pacific Electric Railway.

I recommend the following changes:

One-way Fares.

Glendale (Broadway and Brand boulevard) to La Crescenta, increased from 10 to 15 cents.

Glendale (Avenue F) to La Crescenta, increased from 5 to 10 cents.

Eagle Rock (Central avenue) to La Crescenta, increased from 10 to 15 cents.

Round-trip Fares.

Glendale (Broadway and Brand boulevard) to Montrose, increased from 15 to 20 cents.

Glendale (Broadway and Brand boulevard) to La Crescenta, increased from 15 to 25 cents.

Eagle Rock (Central avenue) to Montrose, increased from 15 to 20 cents.

Eagle Rock (Central avenue) to La Crescenta, increased from 15 to 25 cents.

These increases are granted with the understanding that applicant will concurrently publish a 10-ride fare of 90 cents and a 30-ride fare of \$2.70 between Glendale and Montrose, and a 10-ride fare of \$1.00 and a 30-ride fare of \$3.00 between Glendale and La Crescenta, and will also establish the same fares between Eagle Rock and Montrose and La Crescenta. This arrangement will give to book purchasers a one-way fare of 9 cents between Glendale or Eagle Rock and Montrose as compared with the present 10 cent fare, and makes no change in the present 10 cent fare between Glendale or Eagle Rock and La Crescenta.

I submit the following order:

ORDER.

The Glendale and Montrose Railway having filed an application with this Commission to adjust passenger fares on its line, and a regular hearing having been held,

It is hereby ordered that the Glendale and Montrose Railway be and the same is hereby granted authority to cancel the present one-way and round-trip fares applying between Glendale (Broadway and Brand boulevard), Eagle Rock and La Crescenta, the one-way fare between Glendale (Avenue F) and La Crescenta, and also the round-trip fares between Glendale (Broadway and Brand boulevard), Eagle Rock and Montrose;

It is further ordered that the Glendale and Montrose Railway be authorized to publish and file in a tariff to become effective within twenty (20) days from the date of this order the following passenger fares:

| Between | One-way | Round-trip | 10-ride individual | 30-ride family |
|------------------------------------|---------|------------|--------------------|----------------|
| Glendale (Broadway and Brand) and— | | | | |
| Montrose | | | \$0 90 | \$2 70 |
| La Crescenta | \$0 15 | \$0 25 | 1 00 | 3 00 |
| Eagle Rock (Central avenue) and— | | | | |
| Montrose | | | 90 | 2 70 |
| La Crescenta | 15 | 25 | 1 00 | 3 00 |
| Glendale (Avenue F) and— | | | | |
| La Crescenta | 10 | | | |

Round-trip limit ten days.

Ten-ride individual limit thirty days.

Thirty-ride family limit ninety days.

It is further ordered that as to the proposed advances in other fares, the same be and are hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of May, 1915.

DECISION No. 2411.

IN THE MATTER OF THE APPLICATION OF FRESNO INTERURBAN RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF STOCKS AND BONDS AND FOR AN ORDER THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF CERTAIN FRANCHISE RIGHTS.

Application No. 1649.

Decided May 22, 1915.

Applicant, operating four and one-half miles of railway running from Fresno toward Clovis, desires to extend its line into the city of Fresno and to construct a branch to the Gould Colony and a spur to Barton Vineyard, also to purchase certain necessary equipment, and accordingly applies for permission to issue \$25,000.00 par value of its capital stock and \$70,000.00 face value of bonds, stock to be sold at not less than 80 and bonds at not less than 90 for the purposes of such extensions.

Held, Application granted, provided that bonds shall be issued at a ratio of not to exceed \$2.00 in bonds to each \$1.00 of stock, or in an amount not to exceed 70 per cent of proposed expenditures. Applicant also granted a certificate of public convenience and necessity authorizing the exercise of certain franchise rights obtained from the city of Fresno and Fresno County; provided, a clause shall be incorporated therein providing the holder thereof shall not claim a value therefor in excess of the actual amount paid.

J. B. Rogers, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is an application by Fresno Interurban Railway Company for authority to issue 250 shares of its capital stock of the par value of \$100.00 per share and to issue \$70,000.00 of its first mortgage bonds. The applicant proposes to sell the stock at \$80.00 per share and to realize therefrom \$20,000.00 and to sell the bonds at 90 per cent of face value, realizing therefrom \$63,000.00, or a total from both stocks and bonds of \$83,000.00.

With the proceeds thus derived from the stocks and bonds the applicant proposes to construct an extension of its line of railway into the city of Fresno; to the Gould Colony; a spur to the Barton Vineyard; and to purchase certain equipment, the cost of all of which applicant estimates at \$84,921.00.

Fresno Interurban Railway Company was organized for the purpose of building a line of electric railway from Fresno to Clovis, in Fresno

County. An extension is also contemplated to Centerville. The applicant now proposes certain extensions to its line as originally conceived. The applicant is now operating some four and one-half miles of railway, running from the city limits of Fresno toward Clovis. It was the intention of the applicant to connect at the city limits of Fresno with the Fresno Traction Company, but this has been found impracticable and a franchise has now been obtained within the city of Fresno. The extension to the Gould Colony will provide for an interchange connection with the Santa Fe Railway. The Barton Vineyard spur will enable the railway to connect up with the Barton Vineyard and to provide interchange connection with the Southern Pacific.

The applicant thus describes its proposed extension:

"Applicant will use the proceeds from the sale of said stocks and bonds to pay for the construction of the Fresno City extension, Gould Colony branch and Barton spur, and in purchasing equipment required for the operation of the road.

The Fresno City extension will be a single track line 7,050 feet long laid upon public streets of the city of Fresno; 2,750 feet of the line will be along the paved portion of Merced street from the Santa Fe crossing on Q street to J street. The balance of the line will be along oiled streets. This extension will give the road an entrance to the business center of the city through a thickly populated residential district.

The Gould Colony branch and Santa Fe connection will have a total trackage of 7,050 feet and will occupy public highways of Fresno County except on the curve from Fresno avenue to Mahoney avenue, and from Blackstone avenue to the Santa Fe connection it has been necessary to secure private rights of way.

This line provides a satisfactory interchange connection with the Santa Fe Railroad, serves a well settled suburban residential district and terminates within a three or four minute walk of the new state normal school.

The Barton spur will be 2,100 feet long and will occupy a private right of way. It will serve the Barton winery and provides an interchange connection with the Southern Pacific Railroad."

The applicant estimates the cost of the proposed additions and the cost of the equipment as follows:

| | |
|----------------------------|-------------|
| Fresno city extension..... | \$39,140 00 |
| Gould Colony | 18,948 00 |
| Barton spur | 2,833 00 |
| Equipment | 24,000 00 |
| Total | \$84,921 00 |

The equipment is to consist of two interurban electric cars to cost \$7,000.00 apiece; one suburban car to cost \$7,000.00; and one electric freight motor to cost \$5,500.00.

The applicant has heretofore been authorized to issue stocks and bonds, and reports that it has expended on the construction of its line

approximately \$71,000.00. In connection with the proposed Gould Colony branch, the applicant has signed up bonus agreements under which property owners along the proposed line pledge themselves to pay the applicant the sum of \$9,520.00. The persons thus subscribing have the option of paying the money directly to the Fresno Interurban Railway as a bonus, or of taking stock therefor.

The estimates for construction as submitted by the applicant are not wholly satisfactory as to certain of the details, nor am I willing to approve each specific item as it has been estimated. But I believe the total may be accepted as a working estimate. It will be the intention of this order that the securities shall be issued for the actual bona fide cost of the work. If the amount of securities shall provide less than the actual cost of the enterprise, the applicant may apply to the Commission for a further issue of securities. On the other hand, if the securities authorized are more than sufficient to pay for the enterprise, it will be expected that the applicant will issue only sufficient securities to pay for the cost.

As the order herein will be a joint order for stocks and bonds, I shall recommend either that the bonds be issued in the ratio of \$2.00 of bond for \$1.00 of stock as the work progresses, or that the bonds be issued not to exceed 70 per cent of the cost of the work.

The applicant has submitted an estimate of annual earnings which it summarizes as follows:

| | | |
|---|---------------------|-----------|
| Freight | \$49,240 00 | |
| Passenger | 20,250 00 | |
| Mail, express and special service..... | 2,000 00 | |
| Total gross earnings..... | \$71,490 00 | |
| Cost of operation— | | |
| Estimated at 75 per cent of gross earnings..... | 53,618 00 | |
| Net operating revenue..... | \$17,872 00 | |
| Interest on bonds— | | |
| Authorized | \$110,000 00 | |
| This application | 70,000 00 | |
| Six per cent on..... | \$180,000 00 | 10,800 00 |
| Surplus | \$7,072 00 | |

Applicant also asks that this Commission find that public convenience and necessity require that it should exercise rights and privileges granted by Fresno County and by the city of Fresno. The franchise granted by Fresno County provides in general as follows:

For a term of fifty years, grantee is given authority to construct, equip, operate and maintain a street and interurban railroad upon the following highways in Fresno County:

Commencing at a point on or near the center line of Fresno avenue, one-quarter mile, a little more or less, southerly from

Mahoney avenue, and running thence northerly along the center line of said Fresno avenue to and within Mahoney avenue; thence westerly along the center line of Mahoney avenue to and within Blackstone avenue; thence northerly along the center line of Blackstone avenue to and within Weldon avenue; thence westerly along the center line of Weldon avenue to The Atchison, Topeka and Santa Fe Railway, being a total length of one and one-quarter miles, a little more or less.

The principal limitations upon this franchise are as follows:

Grantee shall, at its own expense, pave, macadamize and grade between its tracks and two feet on either side in the same manner as the balance of the highway along which it runs may be paved, macadamized and graded. Cars shall run at intervals of not more than thirty minutes between the hours of 7 a.m. and 11 p.m. After the first five years grantee shall pay annually to the county of Fresno 2 per cent of its gross receipts. The single trip fare between Belmont avenue and any point on the railroad constructed under this franchise shall not exceed 5 cents. Grantee shall secure and convey to the county of Fresno such additional rights of way as are necessary to widen Mahoney and Blackstone avenues to 80 feet, and Fresno avenue to 70 feet.

The franchise granted by the city of Fresno on April 19, 1915, provides in general as follows:

For a term of twenty-five years, grantee is authorized to construct, operate and maintain an electric street railroad upon the following streets in the city of Fresno:

Commencing at or near the intersection of the center line of Belmont avenue with the center line of Fresno avenue; thence westerly along or near the center line of Belmont avenue to and within Valeria street; thence southerly along or near the center line of Valeria street to and within Merced street; thence southwesterly along or near the center line of Merced street to and within J street; thence southeasterly along J street, using the tracks of Fresno Traction Company, thereon, under the terms and limitations of the statutes of the State of California governing such usage, to and within Inyo street; thence northeasterly along or near the center line of Inyo street to and within L street; thence southeasterly along or near the center line of L street to the southeasterly end thereof, and over private property, to and within Hamilton avenue; thence easterly along or near the center line of Hamilton avenue to the corporate limits of said city of Fresno.

The principal limitations under which this franchise is granted are as follows:

No freight shall be carried between the hours of 6 a.m. and 11 p.m., except by permission of the board of trustees. The tracks of the grantee may be used by any other street railway who shall be granted a franchise therefor, subject to the limitations of the California statutes.

Grantee shall construct and maintain street paving between its tracks and for two feet on either side. Sufficient cars to accommodate all persons desiring passage shall be operated at intervals of fifteen minutes or less between 6:30 a.m. and 11 p.m. Single trip fares shall not exceed 5 cents, and school children's tickets shall be issued at half rates. Tracks shall be standard gauge and rails shall weigh not less than sixty-five pounds to the yard. After the first five years grantee shall pay annually to the city of Fresno 2 per cent of its gross receipts. Grantee shall commence work within sixty days from the date of the franchise, and should it not complete that portion of its line along Belmont avenue, Valeria street and Merced street within twelve months, the franchise shall become null and void.

Grantee shall exchange transfers with any other street or interurban railroad with which it may connect, on basis of division of joint fares.

I believe that the applicant should enter into an agreement with the city of Fresno and the county of Fresno under the terms of which it shall agree that the value to be placed upon the franchises, either for purposes of rate making or for public purchase, shall not exceed the sum paid for said franchises.

The applicant has stated that it has engaged Mahoney Brothers to do the construction work involved in the enterprise, and that Mahoney Brothers will be interested in the stock of Fresno Interurban Railway Company.

I recommend that the applicant enter into a contract in regular form before it undertakes the construction work contemplated in this application.

I recommend that the application be granted under certain conditions and therefore recommend the following form of order:

ORDER.

Fresno Interurban Railway Company having applied to this Commission for authority to issue stocks and bonds as specified in the foregoing opinion, and Fresno Interurban Railway Company having also applied to this Commission for a certificate that public convenience and necessity require the exercise by it of certain rights and privileges granted under franchises by Fresno County and the city of Fresno;

And a hearing having been held and this Commission being apprised of all of the facts in connection with these matters, and it appearing that the stocks and bonds which the applicant herein proposes to issue are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Fresno Interurban Railway Company be granted authority and it is hereby granted authority to issue 250 shares of stock of the par value of \$100.00 per share.

It is further ordered that Fresno Interurban Railway be granted authority and it is hereby granted authority to issue \$70,000.00 of its first mortgage ten year 6 per cent bonds.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The stock herein authorized shall be sold so as to net the applicant not less than \$80.00 per share.

(2) The bonds herein authorized shall be sold so as to net the applicant not less than 90 per cent of the face value thereof plus accrued interest thereon.

(3) Such moneys as shall be paid to Fresno Interurban Railway Company under the bonus agreements heretofore referred to shall be held by said company either for the purpose of a sinking fund to retire its bonds, or shall be used to pay operating deficits if such shall be incurred, or for additions and betterments to applicant's line of railway; on the condition, however, that such bonus agreements shall be only so used, as herein provided, after application to and approval of such by this Commission.

(4) The proceeds from the sale of the stocks and bonds hereby authorized to be issued shall be used for the following purposes and not otherwise:

| | |
|--|-------------|
| For the purchase of equipment as specified in the application herein, not to exceed----- | \$24,000 00 |
| For the construction of the so-called Fresno City extension, as specified in the application herein, in a total sum not to exceed----- | 39,140 00 |
| For the construction of the Gould Colony branch of railway, not to exceed ----- | 18,948 00 |
| For the construction of the Barton spur, not to exceed----- | 2,833 00 |
| | <hr/> |
| | \$84,921 00 |

(5) The stocks and bonds herein authorized to be issued shall be issued only after the applicant shall have filed with this Commission a contract for the purchase of the equipment which it proposes to acquire, and a copy of the contract for the construction of the so-called Fresno City extension, Gould Colony branch, and Barton spur.

(6) The stocks and bonds herein authorized to be issued shall be issued in either of the two following methods:

(a) Stocks and bonds may be issued in such proportion that for every \$2.00 face value of bonds issued and sold the applicant shall issue and sell \$1.00 par value of stock; or

(b) The applicant shall issue the bonds herein authorized to be issued for not to exceed 70 per cent of the expenditures for additions and betterments made under this order.

(7) Fresno Interurban Railway Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stocks and bonds hereby authorized

to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stocks and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(8) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

(9) The authority herein granted to issue stocks and bonds shall apply to such stocks and to such bonds as shall have been issued on or before May 15, 1916.

Basing its conclusions upon all the facts in connection with this application, it is hereby found as a fact by the Railroad Commission of the State of California that public convenience and necessity require the exercise by Fresno Interurban Railway Company of the rights and privileges granted to it by the county of Fresno under Ordinance No. 154, filed in connection with the application herein, to which reference is hereby made; and it is further found as a fact that public convenience and necessity require the exercise by Fresno Interurban Railway Company of the rights and privileges granted to it by the city of Fresno under Ordinance No. 760, a copy of which is filed in connection with the application herein, marked Exhibit "H."

The finding herein of fact that public convenience and necessity require the exercise by Fresno Interurban Railway Company of the rights and privileges granted by Fresno County and city of Fresno are conditioned upon the filing of an agreement and stipulation by Fresno Interurban Railway Company with Fresno County and the city of Fresno, under the terms of which Fresno Interurban Railway Company shall agree that in any rate proceeding or in any purchase by public authority, or condemnation by public authority, the value of the franchise referred to in this application granted by Fresno County, and the value of the franchise referred to in this application granted by Fresno City, shall be taken to be not more than the sum paid for such franchises by Fresno Interurban Railway Company.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of May, 1915.

DECISION No. 2412.

IN THE MATTER OF ASCERTAINING THE VALUE OF THE PROPERTY
OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS.

Case No. 321.

Decided May 24, 1915.

Investigation upon the Commission's own motion to determine the various elements entering into the value of respondent's property. Findings made as to facts only and not on the question of the value of the property, irrespective of the purposes for which it is ascertained.

Findings of fact: That the reproduction cost of the operative physical property of respondent, as of June 30, 1914, allowing multiples, cost of acquisition and interest during construction, is the sum of \$20,354,746.82; not allowing multiples, etc., \$19,481,206.82; including non-operative property with multiples, etc., \$26,912,865.20; without the use of multiples, etc., \$26,039,325.20. That the reproduction cost, less depreciation or present value of the operative physical property of respondent, as of June 30, 1914, is the sum of \$17,314,213.30; without the use of multiples on land valuations, \$16,440,673.30, and including non-operative property, \$23,641,893.30; same without the use of multiples, etc., \$22,768,353.30.

The greatest differences between the Commission's and the company's engineers lies principally in the values placed on non-operative real estate, particularly what is known as the tidelands held in the name of a subsidiary of respondent. After an exhaustive review of all available data bearing upon the value of property of this nature, an allowance of \$12,500.00 per acre made. That the multiple of 1.85 used by respondent's engineers is far in excess of what has been shown to be the actual excess cost in purchases of rights of way properties. That the multiple of 1.30 is a proper allowance for right of way property and 1.10 for operative property other than right of way. Under the facts in the present case, 10 per cent is a fair allowance for cost of acquisition and 6 per cent a fair allowance for interest during construction.

As regards respondent's claim to a value of \$3,100,000.00 upon its franchise to lands upon which its piers and wharves are constructed, contending that such property is held tax free and at a nominal yearly rental, and accordingly its value is greater at the present time than the fee would be. That such franchise was a gift of the people to respondent to enable it to properly perform its duties to the public, and as such no claim to a return upon an estimated value thereof should be made. That respondent's contention that this franchise is a grant or lease, and as such a value can be placed thereon, is an error, an investigation of its history showing that it is a franchise pure and simple, and accordingly no value can be allowed therefor other than the actual cost of acquisition.

W. I. Brobeck and Jared How, for San Francisco-Oakland Terminal Railways.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

OPINION AND FINDINGS.

This proceeding has been carried forward at the request of representatives of San Francisco-Oakland Terminal Railways, who were desirous that the Commission should make its findings as to the value of the company's property so as to enable the company to present to this Commission with greater assurance an application for authority to issue

securities. The Commission desires to assist San Francisco-Oakland Terminal Railways, along proper lines, in such refinancing, if any, as may be deemed necessary, and for that reason has given the right of way to this proceeding over others which did not appear to be so urgent.

In this proceeding, as in all others of the same character brought under the provisions of the first paragraph of section 47 and of section 70 of the Public Utilities Act, the Commission does not make a general finding on the ultimate question of the value of the property of the railroad. Value is an elusive term, and what may properly be a value for one purpose may be entirely improper as a value for another purpose. The Commission, in all cases of this character, contents itself with finding specific facts bearing on the question of value, leaving to the future the use of these facts or such thereof as may be material in any proceeding in which they may be relevant. In this class of cases, the Commission does not make findings on so-called going value or going concern value. The Commission confines itself to making findings on original cost, reproduction cost, and reproduction cost less depreciation, as herein defined, of the physical properties of the carrier, including in connection with the operative right of way the element of franchise value. If San Francisco-Oakland Terminal Railways shall hereafter present to the Commission an application for authority to issue securities, or if in any other proceeding it becomes necessary so to do, this Commission will give consideration to such claims as the company may then make with reference to so-called going value or going concern value, or any other element of value which the company may claim in addition to those as to which findings are herein made.

At the outset I desire to define certain terms herein used, as follows:

The term "original cost," as used in this opinion, means the original book cost, and is defined as the actual expenditures chargeable to capital account, in accordance with the Interstate Commerce Commission's classification, in cash or its equivalent in terms of cash, made by the carrier for its operative property in the State of California, as of the date of the valuation.

The term "reproduction cost," as used in this opinion, means the estimated cost in cash of acquiring the operative right of way and other operative real estate, and of reproducing, in the condition in which it was acquired, the other physical property of the carrier in the State of California, as of the date of the valuation, to which are added overhead expenditures for engineering, law, interest and similar items.

The term "reproduction cost, less depreciation," as used in this opinion, means the "reproduction cost," less the diminution in the value of the physical elements of the property, due to use, age, obsolescence, inadequacy or other causes, this diminution being called depreciation, plus the increase in the value of the physical elements of the property, due to age or other causes, this increase being called appreciation.

As is usual in proceedings of this character, I shall consider the following matters:

- (1) Organization, construction and operation.
- (2) Stocks, bonds and other indebtedness.
- (3) Revenues and expenses.
- (4) Original cost, as defined.
- (5) Reproduction cost, as defined.
- (6) Reproduction cost, less depreciation, as defined.

1. Organization, Construction and Operation.

San Francisco-Oakland Terminal Railways was incorporated on March 21, 1912, and is a consolidation of four corporations known as San Francisco, Oakland and San Jose Consolidated Railway, Oakland Traction Company, East Shore and Suburban Railway Company and California Railway.

San Francisco, Oakland and San Jose Consolidated Railway, generally known as the "Key Route," was incorporated on March 6, 1908. The company operated an electric interurban railway system in Oakland, Berkeley and surrounding territory, in Alameda County, with a ferry system between the so-called "Key Route" pier and San Francisco.

Oakland Traction Company was incorporated on November 8, 1906. The company was a consolidation of street railway companies operating in Oakland, Berkeley, Alameda, San Leandro, San Lorenzo and Hayward, and surrounding territory, in Alameda County.

East Shore and Suburban Railway Company was incorporated on December 16, 1904. The company operated an interurban electric railway between Oakland and Richmond, Contra Costa County.

California Railway was incorporated on August 18, 1890. The company operated a railway from Fruitvale to Leona Heights, with various spurs, including several of considerable length.

Through the consolidation of these properties San Francisco-Oakland Terminal Railways came into possession of a system of street railways and interurban electric railways in Alameda and Contra Costa counties, and a ferry service between Alameda County and San Francisco.

The following table shows the company's operated mileage, in summary form, as of June 30, 1914:

TABLE No. I.

Operated Mileage.

| | |
|-------------------------------------|---------|
| Miles of first main track..... | 144.934 |
| Miles of second main track..... | 90.381 |
| Miles of spurs and cross-overs..... | 5.41 |
| Miles of yard tracks..... | 16.549 |
| Total mileage, single track..... | 257.274 |

It thus appears that the total operated single track mileage is 257.274 and that the total operated main line, consisting of first and second main

line tracks, is 235.315. The distance between the end of the "Key Route" pier and San Francisco, being 2.9 miles of ferry service, is not included in this mileage.

San Francisco-Oakland Terminal Railways' equipment is operated entirely by means of electric energy which the company secures in part from Pacific Gas and Electric Company and in part from United Light and Power Company (of California). The contract with United Light and Power Company (of California) was the subject of this Commission's order in Case No. 779, decided May 10, 1915, to which decision reference is hereby made.

2. Stocks, Bonds and Other Indebtedness.

The capital stock of San Francisco-Oakland Terminal Railways, as authorized and issued, appears in the following table:

TABLE No. II.

Capital Stock.

| | | Authorized | Issued |
|-------------------|----------------|-----------------|-----------------|
| A preferred ----- | 120,500 shares | \$12,050,000 00 | \$12,050,000 00 |
| B preferred ----- | 10,000 shares | 1,000,000 00 | 1,000,000 00 |
| Common ----- | 151,250 shares | 15,125,000 00 | 15,125,000 00 |
| | | \$28,175,000 00 | \$28,175,000 00 |

The "A" preferred stock is entitled to 6 per cent cumulative dividends, and no more, payable in quarterly installments. The "B" preferred stock is entitled to 6 per cent cumulative dividends after the "A" preferred stock, and no more. In case of dissolution, the "A" preferred stock is entitled to back dividends from surplus earnings and has priority up to its par value of assets. The "B" preferred stock has second call on surplus and assets.

In its annual report for the year ending June 30, 1914, San Francisco-Oakland Terminal Railways reports that the company is controlled by the Realty Syndicate by means of direct ownership of 65 per cent of its capital stock.

San Francisco-Oakland Terminal Railways has no bonds of its own outstanding. As part of the plan of consolidation, however, the company assumed the entire indebtedness of the constituent corporations. The outstanding bonded indebtedness of the constituent corporations, as of June 30, 1914, is stated in the annual report to have been \$19,878,000.00.

The annual report gives the company's current liabilities as \$4,180,539.43. Of this total, the largest item consists of note indebtedness to Oakland Railways, dated August 12, 1912, due June 12, 1913, with interest originally at 6 per cent but later increased to 7 per cent. Accounts payable on June 30, 1914, amounted to \$811,900.58. As of the same date the company reported cash and current assets amounting to

\$825,818.13. The following table shows in summary form a recapitulation of the bonds outstanding against the company's property, its current liabilities and cash and current assets, as of June 30, 1914:

TABLE No. III.

Bonds, Current Liabilities and Current Assets.

| | |
|----------------------------------|-----------------|
| Bonds, issued | \$19,878,000 00 |
| Current liabilities | 4,180,539 43 |
| Total | \$24,058,539 43 |
| Cash and current assets | 825,818 13 |
| Balance (net indebtedness) | \$23,232,721 30 |

The bonded debt given as \$19,878,000.00 should be reduced by the sum of \$3,256,000.00, being bonds pledged as security for the "Halsey loan," of \$2,500,000.00, thus leaving as the actual outstanding bonded debt \$16,622,000.00 and reducing the total indebtedness over cash and current assets to \$19,976,721.30.

San Francisco-Oakland Terminal Railways owns all, except the qualifying directors' shares, of the stock of Oakland Terminal Company, which company owns a large area of tidelands on the West Oakland water front. This company has an outstanding note issue of \$1,100,000.00, which should be charged as an additional indebtedness against San Francisco-Oakland Terminal Railways, thus making a total indebtedness over current assets and cash amounting to \$21,076,721.30 as of June 30, 1914.

At the hearing in this proceeding, San Francisco-Oakland Terminal Railways presented an exhibit purporting to show the cash and property realized from the stocks and bonds issued by the company and its predecessor companies. The following table shows a recapitulation of the figures presented in the exhibit:

TABLE No. IV.

Recapitulation of Proceeds of Stock and Bond Issues.

| | Stock | Bonds | Totals |
|---|-----------------|-----------------|-----------------|
| Total cash realized | \$1,577,067 75 | \$11,619,637 37 | \$13,196,705 12 |
| Total physical property acquired free of debt or at values as fixed at date of acquisition in excess of indebtedness assumed | 7,727,123 84 | 4,345,833 06 | 12,072,956 90 |
| Total investment in cash and physical property | \$9,304,191 59 | \$15,965,470 43 | \$25,269,662 02 |
| Total discounts and commissions .. | 76,070 00 | 632,529 57 | 708,599 57 |
| Total par value stock issued against intangible property | 18,794,738 41 | | 18,794,738 41 |
| Total par value bonds issued to take up notes given in payment of dividends | | 681,000 00 | 681,000 00 |
| Grand total stock and bond issues | \$28,175,000 00 | \$17,282,000 00 | \$45,457,000 00 |

It will be observed that the total cash realized from the issue of these stocks and bonds amounts to only \$13,196,705.12. While the tabulation shows physical property amounting to a book value of \$12,072,956.90 as having been acquired in exchange for the issue of stock and bonds, there is nothing in the record from which the true value of the property so acquired can be ascertained. This table also takes no account of depreciation. Attention should furthermore be drawn to the fact that stock of the par value of \$18,794,738.41 was issued against "intangible property." There is nothing in the record to show what value, if any, this so-called "intangible property" had or now has.

San Francisco-Oakland Terminal Railways filed, as Exhibit No. 10, a statement of shares of stock of Oakland Traction Company, both common and preferred, and of San Francisco, Oakland and San Jose Consolidated Railway preferred stock, sold by R. Whitehead from March 1, 1910, to and including September 10, 1912. The prices secured for Oakland Traction Company preferred stock, in which class of stocks the largest sales were made, start with \$87.50 on March 1, 1910, advanced to \$92.50 on various dates and end with \$82.50 on September 14, 1912. The exhibit states that since that time "sales have been very few and at greatly reduced prices."

3. Revenues and Expenses.

The following table shows the income account of San Francisco-Oakland Terminal Railways for the years ending June 30, 1913, and June 30, 1914, as reported by the company in its annual reports filed with this Commission:

TABLE No. V.
Income Account.

| | Ending June 30, 1913 | Ending June 30, 1914 |
|--|-------------------------|-------------------------|
| <i>Operating Revenue.</i> | | |
| 1. Passenger | \$4,422,070 73 | \$4,411,022 10 |
| 2. Baggage | 265 39 | 907 44 |
| 3. Parlor, chair and special car..... | 1,617 50 | 2,667 35 |
| 4. Mail | 5,437 85 | 6,262 27 |
| 5. Express | 171 00 | 10,612 97 |
| 6. Milk | 18 97 | 416 42 |
| 7. Freight | 4,691 11 | 8,691 28 |
| 8. Switching | 35,133 29 | 19,212 64 |
| 9. Miscellaneous transportation | 3,544 74 | 3,600 00 |
| 10. Total transportation revenue | \$4,472,890 58 | \$4,463,422 47 |
| 11. Station and car privileges..... | 22,863 94 | 27,888 02 |
| 12. Storage | 13 05 | 268 65 |
| 13. Car service | 355 00 | 189 00 |
| 14. Telegraph and telephone..... | 49 50 | 3 75 |
| 15. Rents of tracks and terminals..... | 1,051 31 | 11,041 30 |
| 16. Rents of equipment..... | 4,294 65 | 4,528 47 |
| 17. Rents of buildings and other property..... | 1,338 02 | 1,262 16 |
| 18. Power | 2,574 32 | 6,889 26 |
| 19. Miscellaneous | 42,155 61 | 46,517 15 |
| 20. Operations other than transportation..... | \$74,695 40 | \$98,690 76 |
| 21. Total operating revenues..... | \$4,547,585 98 | \$4,562,113 23 |
| <i>Operating Expenses.</i> | | |
| 22. Way and structures..... | \$349,056 04 | \$400,972 22 |
| 23. Equipment | 243,304 46 | 284,080 70 |
| 24. Traffic | 33,063 56 | 25,398 39 |
| 25. Conducting transportation | 1,912,227 73 | 1,923,965 73 |
| 26. General and miscellaneous..... | 324,779 65 | 300,875 82 |
| 27. Total operating expenses..... | \$2,862,431 44 | \$2,935,292 86 |
| 28. Operating ratio | 62.94% | 64.34% |
| 29. Net operating revenue..... | \$1,685,154 54 | \$1,626,820 37 |
| 30. Miscellaneous income | 129,296 35 | 89,222 32 |
| 31. Gross income less operating expenses..... | \$1,814,444 89 | \$1,716,042 70 |
| <i>Deductions from Income.</i> | | |
| 32. Taxes | \$213,640 01 | \$238,884 37 |
| 33. Interest, funded debt..... | 764,221 38 | 859,267 75 |
| 34. Interest, floating debt..... | 145,791 37 | 119,408 19 |
| 35. Rents of leased lines..... | | 115 30 |
| 36. Other deductions | 99,430 92 | 146,585 23 |
| 37. Total deductions | \$1,223,083 68 | \$1,071,090 38 |
| 38. Net income | \$591,361 21 | \$644,952 32 |
| 39. Reserve for sinking fund..... | 217,077 27 | 38,157 88 |
| 40. Surplus for year..... | \$374,283 94 | \$606,794 44 |
| 41. Surplus at beginning of year..... | 1,032,169 16 | 669,043 77 |
| 42. Total of 40+41..... | \$1,406,453 10 | \$1,275,838 21 |
| 43. Profit and loss adjustments..... | 737,409 33 | 548,498 11 |
| 44. Surplus at close of year..... | \$669,043 77 | \$727,340 10 |

The following table contains certain traffic statistics for the years ending June 30, 1913, and June 30, 1914, as reported in the annual reports:

TABLE No. VI.

Traffic Statistics.

| | 1913 | 1914 |
|--|------------|------------|
| 45. Passenger car mileage..... | 16,318,256 | 16,462,314 |
| 46. Freight, mail and express car mileage..... | 79,451 | 64,691 |
| 47. Total car mileage..... | 16,397,707 | 16,462,314 |
| 48. Regular fare passengers carried..... | 77,072,203 | 76,606,881 |
| 49. Free transfer passengers carried..... | 21,200,388 | 20,335,435 |
| | 98,272,591 | 96,942,316 |
| 50. Average fare—revenue passengers..... | \$0 05737 | \$0 05757 |
| 51. Average fare—all passengers..... | 04199 | 04750 |
| 52. Operating revenues—per car mile*..... | \$0 27733 | \$0 27712 |
| 53. Operating expense—per car mile*..... | 17456 | 17830 |

*Excessive because including proportion chargeable to ferry service.

The income account, as reported by San Francisco-Oakland Terminal Railways, must be used with caution. The department of statistics and accounts reports that items totaling \$187,434.58 charged by the company to capital account, should be transferred to profit and loss. Attention should be drawn to the fact that no depreciation has been charged to maintenance of way and structures and maintenance of equipment.

4. Original Cost.

Neither San Francisco-Oakland Terminal Railways nor this Commission's engineering department were able to ascertain the original cost, as hereinbefore defined, of the company's property. The original construction antedates 1870, and the building and rebuilding of railway lines has been continued under many different ownerships and widely varying conditions to the present time. The records of the original constituent companies are no longer in existence and the values of the property, as shown on the books of San Francisco-Oakland Terminal Railways, have no ascertainable relationship to the actual cost of the property in cash or the equivalent thereof.

I am accordingly unable to make a finding with reference to the original cost of the property.

5. Reproduction Cost.

On April 4, 1914, the company filed in Case No. 321 a valuation as of June 30, 1912, of part of its properties consisting of a valuation of the Key Division, with some exceptions, and the California Railway. On June 12, 1914, the company filed, in Application No. 1152, a statement

headed "Preliminary Valuation of Physical Properties," totaling \$20,685,800.85. This sum does not include land and is not supported by details. About this time the "Woodward & Laymance" appraisal of lands and certain other estimates were informally submitted, all these bringing the reproduction cost as then claimed by the company to \$34,343,786.01.

In addition to this appraisal the company has also made available three other appraisals of the property showing estimated reproduction cost. The totals of these four appraisals are shown in the following table:

TABLE No. VII.
Various Appraisals.

| Appraisal of | Date | Brought up to | Operative | Non-operative | Total |
|--------------------|---------------|---------------|--------------|---------------|--------------|
| Gibbs & Hill..... | July 14, 1911 | June 30, 1914 | | | \$31,729,443 |
| W. A. Cattell..... | July 18, 1911 | July 18, 1911 | \$17,301,300 | \$11,479,580 | 28,783,880 |
| J. G. White & Co., | Oct. 31, 1912 | June 30, 1914 | | | 32,159,837 |
| Company, as above | | | 23,682,681 | 10,661,105 | 34,343,786 |

The Commission does not know how the totals in the first three appraisals were made up. The totals shown are secured by adding to the totals as of the dates of these respective inventories the cost of additions and betterments subsequent to the dates of the appraisals. It is clear that a considerable portion of the amounts charged to additions and betterments are not proper capital charges. In August, 1914, the company commenced a detailed inspection and valuation of its physical property. While no complete appraisement has been filed as a result of this work the data so secured have been used to advantage for the purpose of checking the inventory and appraisal prepared by this Commission's engineering department and of securing modifications therein.

The Commission's engineering department prepared a complete inventory and appraisal of the company's property, both operative and non-operative, as of June 30, 1914, a summary whereof is attached hereto and marked "Exhibit A." After this report was submitted the Commission's engineers and the company's engineers held numerous conferences, at which all available information was exchanged and analyzed and earnest attempts made to reach agreements upon all controverted items. As a final result the engineering department made additions to the amounts at first allowed, in certain accounts, and the company withdrew claims for further allowances, except as hereinafter indicated. Attached hereto and marked "Exhibit B" is a summary sheet containing the Commission's final conclusions, by accounts.

I shall now discuss in some detail certain of the accounts which seem to require consideration.

(a) *Lands.*

San Francisco-Oakland Terminal Railways is the owner of lands, operative and non-operative, as follows:

TABLE No. VIII.

| <i>Lands.</i> | |
|---|---------------------|
| Operative right of way----- | 88,000 acres |
| Dedicated lands ----- | 12,291 acres |
| Other operative lands----- | 42,807 acres |
| | <hr/> 143,098 acres |
| Non-operative right of way----- | 73,466 acres |
| Other non-operative land (including 83.14 acres tidelands owned by San Francisco-Oakland Terminal Railways) ----- | 296,235 acres |
| Tidelands owned by Oakland Terminal Company--- | 310,930 acres |
| | <hr/> |
| Total non-operative ----- | 680,631 acres |
| | <hr/> |
| Grand total operative and non-operative----- | 823,729 acres |

The tidelands owned by Oakland Terminal Company are here listed for the reason that San Francisco-Oakland Terminal Railways owns the entire capital stock of Oakland Terminal Company with the exception of the five shares to qualify the directors.

It will be noted that a very large percentage of the lands owned by San Francisco-Oakland Terminal Railways are non-operative. The operative land represents in area only 17 per cent of the total area. As reported by this Commission's engineering department, the operative real estate represents only 34 per cent of the total value of the entire real estate.

The non-operative right of way above referred to consists of strips of right of way acquired for proposed extensions, principally for the construction of the so-called "San Jose Short Line" and "Sacramento Short Line." These rights of way have never been used, and it is uncertain whether they will ever be used.

The other non-operative lands above referred to consist of scattered parcels of other lands, comprising picnic grounds, parks, a portion of the tidelands owned by San Francisco-Oakland Terminal Railways, but not used in its business, and scattered parcels of real estate, some of which are leased and some vacant.

The tidelands owned by Oakland Terminal Company and classed as non-operative are located on the western water front of Oakland, between the lands of San Francisco-Oakland Terminal Railways on the north, the right of way operated by the Southern Pacific Company on the east, the Oakland mole, operated by Southern Pacific Company, on the south and the low tide-line of 1852, as agreed upon, on the west. Further to the west, and between the tidelands of Oakland Terminal Company and deep water, lie tidelands belonging to the city of Oakland and in course of development by the city.

The greatest difference in estimated value between the San Francisco-Oakland Terminal Railways and this Commission's engineering department, shown by their respective appraisals, exists in the estimates of land values. The final claim of San Francisco-Oakland Terminal Railways for land values, as shown by its Exhibit No. 9, is a reproduction value of \$17,378,420.00, to which must be added a further amount of \$309,314.00, claimed to represent the value of leased lands, easements, street railway franchises and street widening and paving expenses. The revised estimate of this Commission's engineering department, as shown by Railroad Commission's Exhibit No. 3, covering the same items as those covered by Exhibit No. 9 of San Francisco-Oakland Terminal Railways, is \$6,848,664.00. This sum, as will be observed, is considerably less than half the amount claimed by San Francisco-Oakland Terminal Railways. While the largest difference is in the estimated value of the tidelands, there are other differences running more or less through the entire land appraisal. I have given careful consideration to the question of land values and have personally inspected, in company with representatives of San Francisco-Oakland Terminal Railways, all the lands as to which the larger differences in estimated values exist.

The first appraisal of land values filed with this Commission by San Francisco-Oakland Terminal Railways was prepared by Angus Clark, for many years in charge of the company's land department. This appraisal was filed by the company in June, 1914, and totals \$13,148,557.00.

The next appraisal filed by the company is dated February 22, 1915, and was prepared by Frank J. Woodward, a dealer in real estate, who has had a large experience running over a period of years in real estate transactions in Alameda County. The total estimated value of the lands, as shown by this appraisal, was \$16,115,112.00. This sum did not include any items for cost of acquisition or for interest during construction. These items were not claimed by the company until they had been allowed by the Commission's engineering department, and they appear for the first time in the company's Exhibit No. 9, hereinbefore referred to. It having developed that the acreage allowed by this Commission's engineering department and the acreage used by Mr. Woodward were both in excess of the actual acreage owned by the company and that certain slight changes as between operative and non-operative properties should be made, Mr. Woodward prepared a supplemental inventory and appraisal under date of March 30, 1915. This inventory was introduced in this proceeding and marked Exhibit No. 5 of San Francisco-Oakland

Terminal Railways. The following table shows a summary of this appraisal:

TABLE No. IX.

Summary of Mr. Woodward's Appraisal.

SUBDIVISION "A"—OPERATIVE PROPERTY.

| | | |
|---|-------------|-------------|
| Rights of way owned, including incidental real estate connected therewith (real estate value only)----- | \$1,840,200 | |
| Plus 85 per cent additional as railroad right of way value, figured on the basis explained below----- | 1,564,170 | \$3,404,370 |

SUBDIVISION "B"—OPERATIVE PROPERTY.

| | | |
|--|-----------|-----------|
| Other land used in the operation of your company (real estate value only)----- | 1,167,775 | 1,167,775 |
|--|-----------|-----------|

SUBDIVISION "C"—OPERATIVE PROPERTY.

| | | |
|---|---------|---------|
| Land purchased for rights of way and dedicated for public use (real estate value only)----- | 174,644 | |
| Plus 85 per cent additional as railroad right of way value, figured on the basis explained below----- | 148,447 | 323,091 |

SUBDIVISION "D"—NON-OPERATIVE PROPERTY.

| | | |
|---|----------|-----------|
| Land purchased as and for use as right of way for proposed Richmond line and first section of San Jose Short Line, etc. (real estate value only)----- | \$83,460 | |
| Plus 85 per cent additional as railroad right of way value, figured on the basis explained below----- | 682,941 | 1,486,401 |

SUBDIVISION "E"—NON-OPERATIVE PROPERTY.

| | | |
|---|-----------|-----------|
| Other real estate— | | |
| Section 1. Tidelands, direct title to which is owned | 2,095,911 | |
| Section 2. Other non-operative real estate----- | 736,788 | |
| Section 3. Tidelands owned through ownership of entire capital stock of Oakland Terminal Company- | 6,772,055 | 9,604,754 |

| | |
|--|--------------|
| Total present value of real estate owned by company----- | \$15,986,391 |
|--|--------------|

The final claims of San Francisco-Oakland Terminal Railways, under the head of "Land Values," appear in the company's Exhibit No. 9, and are set forth in the following table:

TABLE No. X.

San Francisco-Oakland Terminal Railways—Summary Statement of Real Estate Valuation Claimed by Company as of June 30, 1914.

| | Real estate value only | Additional value (85 per cent) as railroad right of way | Cost of acquisition and in- cidentals (10 per cent) | Interest during con- struction, 2 years at 7 per cent | Reproduc- tion total |
|--|---------------------------------|---|---|---|-------------------------|
| 1. Rights of way owned, including incidental real estate used in connection therewith | \$1,840,200 | \$1,564,170 | \$240,437 | \$524,273 | \$4,269,080 |
| 2. Land purchased for rights of way and dedicated for public use | 174,644 | 148,447 | 32,309 | 49,756 | 405,156 |
| 3. Other land used in electric railway operation | 1,167,755 | | 116,777 | 179,837 | 1,464,389 |
| 4. Non-operative land purchased as and for use as right of way for proposed extensions | 803,460 | 682,941 | 148,640 | | 1,635,041 |
| 5. Other non-operative real estate | 736,788 | | | | 736,788 |
| 6. Tidelands (fair market value)— | | | | | |
| (a) Owned in fee | 2,095,911 | | | | 2,095,911 |
| (b) Owned through ownership of capital stock of Oakland Terminal Company | 6,772,055 | | | | 6,772,055 |
| Totals | \$13,590,833 2,395,558 | \$2,395,558 | \$638,163 | \$753,866 | \$17,378,420 |
| | \$15,986,391 | | | | |

The following table shows the company's claims as they appear in Exhibit No. 9 to additional values for leased lands, easements, street railway franchises, street expenses, widening and paving:

TABLE No. XI.

San Francisco-Oakland Terminal Railways—Supplemental statement of reproduction cost, as of June 30, 1914, placed by the company on its leased lands, easements, street railway franchises, street expenses, widening, paving, etc.

(1) *Leased lands.*

| | |
|--|----------|
| Rental during two years (construction period) | \$16,210 |
| Cost of acquisition and incidentals (5 per cent) | 810 |
| Interest, one year at 7 per cent | 1,191 |
| Total | \$18,211 |

(2) *Easements.*

| | |
|--|-------|
| Estimated original cost | \$400 |
| Cost of acquisition and incidentals (5 per cent) | 20 |
| Interest, two years at 7 per cent | 59 |

Total ----- 479

(3) *Street railway franchises.*

| | |
|---|-----------|
| Estimated cost of bids and advertising | \$138,232 |
| Cost of acquisition and incidentals (10 per cent) | 13,820 |
| Interest, two years at 7 per cent | 21,284 |

Total (as per details on separate statement) ----- 173,336

(4) *Street expenses—widening, paving, etc.*

| | |
|---|-----------|
| Reported cost of certain pieces of work | \$109,615 |
| Interest, one year at 7 per cent | 7,673 |

Total ----- 117,288

Grand total ----- \$309,314

Mr. W. M. Wells, this Commission's real estate valuator, made a careful and exhaustive survey of real estate transactions in Oakland during the last few years, in so far as they seemed to him to be pertinent in ascertaining the present fair value of the real property owned by San Francisco-Oakland Terminal Railways. His report, which is embodied in Railroad Commission's Exhibit No. 1, showed a total estimated reproduction cost, including the cost of acquisition and interest during construction, amounting to \$6,857,926.00. After agreeing with the company's representatives as to the acreage involved, except as to the area of the right of way of California Railway, and also making slight changes as between operative and non-operative properties, Mr. Wells presented his final conclusions in Railroad Commission's Exhibit No. 3. These conclusions appear in the following table:

TABLE No. XII.

Engineering Department's Revised Real Property Estimate

| Description of tracts. Recapitulation | acres. Area. | Present market value | Present railroad value | Cost of acquiring, 5 per cent | Two years at 6 per cent. Interest during con- struction | Total reproduc- tion cost |
|---|-----------------|----------------------------|------------------------------|-------------------------------------|--|---------------------------------|
| <i>Operative—</i> | | | | | | |
| Right of way..... | 77.667 | \$888,831 | \$1,111,039 | \$55,553 | \$139,991 | \$1,306,583 |
| Dedicated lands | 12.291 | 123,511 | 154,389 | 7,719 | 19,453 | 181,561 |
| Leased lands | | | 16,210 | 324 | 992 | 17,526 |
| Easements (original cost) | | | 400 | 20 | 50 | 470 |
| Franchises (original cost) | | | 93,827 | 4,691 | 11,822 | 110,340 |
| Street widening (orig- inal cost) | | | 109,615 | | *6,577 | 116,192 |
| Totals, Acct. 2, operative | 89.958 | \$1,012,342 | \$1,485,480 | \$68,307 | \$178,885 | \$1,732,672 |
| Other lands, Acct. 3.. | 42.807 | 825,998 | 825,998 | 41,300 | 104,076 | 971,374 |
| Totals, Accts. 2 and 3, operative | 132.765 | \$1,838,340 | \$2,311,478 | \$109,607 | \$282,961 | \$2,704,046 |
| <i>Non-operative—</i> | | | | | | |
| Right of way..... | 73.466 | \$591,944 | | | | \$591,944 |
| Other lands | 296.235 | 1,220,699 | | | | 1,220,699 |
| Oakland Terminal Co. tidelands | 310.930 | 2,331,975 | | | | 2,331,975 |
| Grand total, op- erative and non- operative | 813.396 | \$5,982,958 | | | | \$6,848,664 |

*Contingencies, 2 per cent. Interest, 1 year at 6 per cent.

I desire first to give consideration to the methods employed by Mr. Woodward and Mr. Wells, respectively.

The method employed by Mr. Woodward is clearly set forth in the introduction to Exhibit No. 5 of San Francisco-Oakland Terminal Railways. Referring first to the valuation of real property other than rights of way and tidelands, Mr. Woodward says:

“In valuing the real estate other than right of way and tidelands owned by the company, I have fixed a value which I consider would be a fair selling price of the property in question under the average conditions of the last three years, based on a personal knowledge of the selling price of similarly located land, taking into account the exceptionally valuable locations which your company has obtained for many of its station buildings, its power plant, etc.”

Referring then to the valuation of rights of way, Mr. Woodward states:

“In fixing the real estate value of rights of way owned, I have figured on the basis of current values of similarly located property, taking into account, in the case of right of way strips crossing blocks in such a manner as to largely and wholly destroy the value

of certain lots not entirely occupied, the total value of such destroyed lots. This method is necessary to a fair valuation, inasmuch as it is, as a rule, impossible to purchase such portions of any given lot as will largely or wholly destroy the salability of the balance of the lot at a price less than the reasonable value of the entire lot."

Mr. Woodward then states that it is necessary to add to the real estate value of right of way an additional value as a railroad right of way "by reason of the fact that a railroad or a street railway company must by necessity of purchasing a continuous right of way along a practical route surveyed by its engineers, purchase the property (through condemnation or private arrangements) of many unwilling sellers from whom property can be purchased only at a material premium over normal real estate value of similarly located land." After referring to various percentages called multiples, which have at times been added to what Mr. Woodward calls the real estate value, he concludes on this point as follows:

"I have therefore used the percentage of 85 per cent increase, which, to the best of my knowledge and belief, represents the actual increased cost of the rights of way purchased by the Western Pacific Railway in Oakland and Alameda County. The Western Pacific right of way, however, traverses a section of the city of Oakland occupied by the poorer class of improvements and where the increased cost of acquirement would not be as great as in the better business and residential districts where many of your rights of way are located."

Referring then to the valuation of the tidelands, Mr. Woodward says:

"In the valuation of the tidelands owned by your company it is impossible to establish, by actual selling prices of contiguous tracts as definitely as can be done in the case of other real estate owned by your company, the fair present value of these tidelands. In making a proper valuation of these tidelands I have been forced to rely on the selling value of tidelands in reasonably similar locations as well as the value of real estate after having been filled in which is similarly situated as regards railway and water transportation. I have made some inquiry as to the value of similar tidelands adjacent to the cities of San Francisco, Los Angeles and Seattle. I am familiar with the prices at which submerged or partially submerged lots adjacent to the city front of Oakland and Alameda have sold during recent years."

Mr. Woodward then makes certain comments on the elements entering into the value of the tidelands, to which reference will hereafter be made.

As already indicated, San Francisco-Oakland Terminal Railways later added to Mr. Woodward's valuation items for cost of acquisition, interest during construction, leased lands, easements, street railway franchises and the widening and paving of certain streets.

Mr. W. M. Wells made a survey and analysis of all the recent sales in Oakland which would seem to have a bearing on the value of the real property of San Francisco-Oakland Terminal Railways and then presented a report, based on the facts thus ascertained, containing his estimate of the fair value of the property. In determining the fair value of the company's operative right of way, he ascertained, first, the fair market value of property of similar character in the vicinity, and then applied thereto a multiple of 1.25. To the total thus secured he added 5 per cent for cost of acquisition and 12 per cent for interest during an assumed construction period of two years at 6 per cent per annum. The same method was pursued with reference to lands dedicated by San Francisco-Oakland Terminal Railways to the public for street use. These lands are not owned by the company. With reference to the operative lands leased but not owned by the company, Mr. Wells allowed the rent paid during a period of one year, with an allowance of 2 per cent for contingencies, plus interest on this amount for one year.

Certain costs were incurred in connection with the widening and paving of streets, in most of which cases the company did not own the land. Mr. Wells allowed the original cost, which he reported to be \$109,615.00, to which sum he added interest for one year at the rate of 6 per cent per annum. In estimating the value of operative lands other than those already indicated, Mr. Wells estimated the fair market value on the basis of the fair market value of adjacent property of a similar character, to which sum the usual additions were made for cost of acquisition and interest during construction. No multiple was allowed as to these lands, for the reason that Mr. Wells concluded from an examination of the actual amounts paid by the company in similar cases that the company was not compelled to pay any multiple, and he assumed the same condition would exist if the company were to repurchase the property at the present time.

In estimating the fair value of the company's non-operative property, Mr. Wells estimated its fair market value from all the facts which he could ascertain with reference to property of similar character in the vicinity, where possible, but made no allowance for multiples, cost of acquisition or interest during construction.

As already stated, Mr. Woodward, after ascertaining what he terms the real estate value, added a multiple of 85 per cent for "railroad right of way" to all rights of way owned and operated by the company, all lands purchased for rights of way and dedicated for public use and all lands purchased for rights of way but never used. Mr. Woodward testified at the hearing that his multiple of 85 per cent was based on the multiple which he believed to have obtained with reference to the purchases of Western Pacific Railway Company in Oakland and other portions of Alameda County. Although he later testified that his own

experience in Alameda County showed that this multiple was correct, he distinctly states in his report as follows:

"I have therefore used the percentage of 85 per cent increase, which, to the best of my knowledge and belief, represents the actual increased cost of the rights of way purchased by the Western Pacific Railway in Oakland and Alameda County."

I can not escape the conclusion that Mr. Woodward, consciously or unconsciously, used the multiple of 85 per cent for the reason that he believed, from such talks as he had with Western Pacific officials, that this was the multiple shown by the experience of the Western Pacific in purchasing real property in Oakland and other portions of Alameda County. It appears that Mr. Woodward's information in this respect is not correct. In the inventory and appraisal which Western Pacific Railway Company has filed with the Railroad Commission, the company reports that it owns in the city of Oakland 451.161 acres of land for which the company claims a market value of \$5,575,223.00 and a present railroad value of \$6,683,248.00. The multiple, as reported by the company, varies from a minimum of 1.09 to a maximum of 4.65. The weighted average multiple claimed by the company for its purchases of real property in the city of Oakland is 1.20 instead of 1.85, as used by Mr. Woodward.

Mr. Wells has made a careful analysis of the increased prices which railroads have been compelled to pay in this State for both terminal and right of way lands in excess of the fair market value of the property. His conclusions are shown in Railroad Commission's Exhibit No. 5 in this proceeding. Mr. Wells shows that in a total of 938.8 miles of steam and electric railways concerning which he has completed his estimates, the weighted average multiple of all purchased lands was 1.34. These lands include very large areas of country right of way as to which the multiple is generally considerably larger than as to terminal lands within the cities.

Mr. Wells has presented as Railroad Commission's Exhibit No. 2, a computation showing the multiples in connection with a number of recent scattered purchases of San Francisco-Oakland Terminal Railways. These purchases covered operative property from December 31, 1910, to March, 1914, and non-operative property from April 30, 1913, to April 29, 1914. The purchases of operative right of way comprised costs of only \$105,393.87, when the multiple was found to be 1.54 and of operative other lands, costing \$96,489.85, when the multiple was found to be 1.00. While certain errors in computation appear in this statement, they do not materially alter the final conclusions as reported by Mr. Wells.

I desire to draw attention further to the fact that Mr. Woodward's "real estate value" includes all severance damages and that his addi-

tional 85 per cent represents only additional value by reason of the fact that the property is to be used for railroad purposes. The multiples used by Western Pacific Railway and this Commission's engineering department uniformly include all the costs over the fair market value of adjacent property of a similar character, including severance damages. It thus appears that Mr. Woodward allowed severance damages in the first instance, in ascertaining what he terms the real estate value, and then used a multiple which includes as one of its elements an allowance for the same severance damages which Mr. Woodward had already included in his real estate value. Accordingly, in order to compare Mr. Woodward's estimate of the fair market value of the property with Mr. Wells' estimate; it will be necessary to deduct from Mr. Woodward's estimate of real estate value that portion of his estimate which represents severance damages.

On the facts of this case I am convinced that if multiples are to be allowed, full justice will be done to San Francisco-Oakland Terminal Railways by applying a multiple of 1.30 to the company's operative right of way and a multiple of 1.10 to the company's operative lands other than right of way, the base price in each case being the fair market value of adjacent property of similar character. While it is true that comparatively heavy severance damages would have to be paid if certain of the company's rights of way, particularly those in Piedmont, were to be reacquired at the present time, it is equally true that no multiples at all or only very slight multiples would have to be paid in connection with the acquisition of certain of the other operative property, such as the Sacramento street dedicated rights of way and the Yerba Buena yards. Looking at the situation as a whole, I am convinced that the application of the multiples which I have suggested would be fair and liberal on the facts of this case, if multiples are to be allowed.

San Francisco-Oakland Terminal Railways urge that the allowance for the cost of acquisition should be 10 per cent instead of 5 per cent, as allowed by the engineering department, and in this connection draws attention to the fact that the amount claimed by Western Pacific Railway Company for its entire lands is 9.1 per cent and that the amount allowed by this Commission in certain cases has been 10 per cent. I was at first impressed by this contention, but on analyzing the situation, bearing in mind the fact that the 10 per cent allowance is due largely to the heavy costs of acquisition of right of way properties in outside districts, and that in the present case the lands to be acquired are all located within narrow compass in thickly populated areas and are of relatively high value, so that the salary of right of way agents would be relatively small, I have reached the conclusion that on the facts of this case the allowance made by the engineering department is ample.

San Francisco-Oakland Terminal Railways and this Commission's engineering department agree on an estimated period of construction of two years, and agree that interest on the assumed cost of purchasing real property should be allowed during the entire two years. The engineering department has allowed interest at the rate of 6 per cent per annum, while the company claims 7 per cent. While Mr. Weeks, president of San Francisco-Oakland Terminal Railways, testified that, in his judgment, an allowance of 7 per cent would be proper, a study of the interest rate actually paid by San Francisco-Oakland Terminal Railways and its predecessor companies convinces me that an allowance of 6 per cent is ample. It is manifestly not proper to base the allowance for interest on the rates which would have to be paid during a time of temporary financial stringency. Without going into all the details at this time, I desire simply to draw attention to the fact that none of the bonds issued by any of the predecessors of San Francisco-Oakland Terminal Railways have borne interest at a rate in excess of 6 per cent and that most of the large bond issues carry an interest charge of only 5 per cent. A study of this situation, together with the discounts and commissions paid on the sale of bonds, and of the outstanding notes of San Francisco-Oakland Terminal Railways, as reported to this Commission in the annual report for the year ending June 30, 1914, none of which notes bear interest at a rate in excess of 6 per cent, convinces me that an allowance of 6 per cent for interest during construction is sufficient.

I shall recommend findings under the head of reproduction cost, in strict compliance with the definition of the term "reproduction cost," as given in the first part of this opinion, which definition, in so far as it applies to the land accounts, reads as follows: "The estimated cost of acquiring the operative right of way and other operative real estate." By reason of the fact that it undoubtedly costs more to acquire certain classes, at least, of railroad operative property and to hold the same during the estimated period of construction, than the fair market value of land of similar character in the vicinity, I am bound, under the terms of the definition of reproduction cost, hereinbefore given, to find a value in excess of the present day fair market value of adjacent property of the same character. The injustice of allowing, in a rate case, not merely the entire unearned increment of land, but also additions for multiples and overhead percentages, is so patent that the Supreme Court of the United States, while relying in terms on the doctrine of reproduction cost, nevertheless, in the famous *Minnesota Rate Case*, 230 U. S. 352, refuses to allow anything for multiples and overhead

percentages in connection with land values. At page 455 of the Reporter, Mr. Justice Hughes says:

“Assuming that the company is entitled to a reasonable share in the general prosperity of the communities which it serves, and thus to attribute to its property an increase in value, still the increase so allowed, apart from any improvements it may make, can not properly extend beyond the fair average of the normal market value of land in the vicinity having a similar character. Otherwise we enter the realm of mere conjecture.”

The same conclusion is expressed (at page 455) in greater detail, as follows:

“The company would certainly have no ground of complaint if it were allowed a value for these lands equal to the fair market value of similar land in the vicinity, without additions by the use of multipliers, or otherwise, to cover hypothetical outlays. The allowances made below for conjectural cost of acquisition and consequential damages must be disapproved; and, in this view, we also think it was error to add to the amount taken as the present value of lands the further sums, calculated on the value, which were embraced in the items of ‘engineering, superintendence, legal expenses, contingencies and interest during construction.’ ”

If the Supreme Court had followed the reproduction cost theory to its logical conclusion and had assumed that the lands were being reacquired in the present condition in which they and adjacent lands were found at the time of the valuation, on the impossible assumption that the development of adjacent lands and their value would have been just as great if the railroad had not been constructed and if it were now desired to acquire lands for the first time for the purpose of railroad right of way, the court could not have escaped the necessity of allowing multipliers and overhead percentages. But the Supreme Court, although in words discarding the original cost or investment theory and while in words approving the reproduction cost theory, did not give its definition of the term “reproduction cost” and refused to follow the reproduction cost theory where land values are in question. The court refused to allow anything for land values in excess of the fair average market value of similar lands in the vicinity, without the addition of multipliers and without the addition of overhead percentages. When the court refers to additions by the use of multipliers, or otherwise, to cover hypothetical outlays, the court undoubtedly has in mind the fact that it is impossible to assume the reacquisition of railroad rights of way and terminals on the basis of the value of adjacent property, for the reason that if the railroad had not been constructed, the residences and industries would largely not be there and the value of adjacent property of similar character would be much less than the present fair average market value of such lands, on which the Supreme

Court makes it allowance for railroad lands. Hence, the Supreme Court, while refusing to adopt the original cost or investment theory, refuses to allow anywhere near the sum to which it would be driven if it had consistently followed the theory which it claims to adopt.

In the present case, while I shall make findings in strict accord with the definition of "reproduction cost" heretofore adopted by the Commission for use in these valuation cases, I desire again to draw attention to the fact that it does not necessarily follow that in other proceedings of a different character allowance will be made for lands on the basis of the addition of multipliers and overhead percentages to the fair average market value of adjacent property of similar character.

Referring now to the base price of the company's operative property, to portions of which Mr. Woodward and Mr. Wells added their different multiples, I find that apart from the tidelands, to which I shall hereinafter give special consideration, the major difference exists with reference to some dozen parcels of land, most of which I have personally inspected.

In reporting the acreage of the right of way of California Railway, Mr. Wells allowed 763,790 square feet, while the company claimed 1,213,646 square feet. The deduction made by Mr. Wells was due to the fact that the Realty Syndicate claims to own the remaining area. The company presented evidence at the hearing to show that its predecessors and itself have been in possession of the entire right of way property for over five years, claiming title and paying taxes. In view of this evidence, I am of the opinion that for the purpose of this proceeding, the Commission should allow the entire area claimed by the company. Mr. Woodward claimed 20 cents per square foot for the entire area. Mr. Wells made a careful analysis of the selling prices of property along different portions of this right of way and assigned different values to different portions of the right of way, based on the fair average market value of similar property in the vicinity. I am inclined, in this instance, to give more weight to the estimate of Mr. Wells than to that of Mr. Woodward, for the reason that the estimate of Mr. Wells appears to be the result of a more thorough examination of sales of property in the vicinity.

With reference to the different parcels of land which are collectively designated the Yerba Buena yards, Mr. Woodward estimates a reproduction value, without the addition of multipliers or overhead percentages, of \$876,100.00, while the estimate of Mr. Wells is \$507,553.00. Apart from the tidelands, this is the property as to which there is the largest difference in the estimates of Mr. Woodward and Mr. Wells. Mr. Woodward testified that the Santa Fe yards across the street to the north from the Yerba Buena yards is the only parallel piece of property which can be used for the purpose of making a com-

parison of values. He testified that the Santa Fe people estimated the value of their property from San Pablo avenue west to the Southern Pacific tracks and from Yerba Buena avenue north to be 68 cents per square foot. Mr. Woodward accordingly allowed 60 to 65 cents per square foot for the larger portion of the area included within the Yerba Buena yards. There is no evidence to show on what the Santa Fe bases its value nor did Mr. Woodward refer to any sales in support of his estimate or in support of the Santa Fe's estimate of the value of their property. Mr. Wells valued the larger portion of the area of Yerba Buena yards at 37.6 cents per square foot. This estimate is based on quite a number of actual sales during the last two years of property immediately adjacent to the Santa Fe terminals to the north. He testified that these sales have been made on the basis of 35 cents per square foot, but that the present owner of the property is now asking 37.6 cents per square foot, which price was applied by Mr. Wells to the larger portion of the Yerba Buena yards. While the property which Mr. Wells used as his basis has been subdivided into lots and is cut up by streets, the price paid for this property during the last two years included the street work. I am inclined to give more weight to the actual sales of the property on which Mr. Wells relies than on the unexplained asking price of the Santa Fe's property, which I understand is not for sale in any event.

I bear in mind, however, the fact that a large parcel of land such as the Yerba Buena yards, which is intersected by only one or two streets, has for terminal purposes a considerably greater value than land intersected by numerous streets and held in small holdings.

With reference to the other parcels of land as to which the major differences exist, apart from tidelands, I am inclined to find a value somewhere between that claimed by Mr. Woodward and by Mr. Wells. Each of these men made a careful and conscientious attempt to arrive at the real value of the property, and I am of the opinion that the safe value lies somewhere between their estimates.

By subtracting from Mr. Woodward's estimate for all the lands except the tidelands the amounts included by reason of severance damages and excluding multiples, the amount claimed by Mr. Woodward is approximately \$3,364,750.00. The amount claimed by Mr. Wells for the same land on the same basis is approximately \$2,890,183.00.

I have given careful consideration to the differences between Mr. Woodward and Mr. Wells with reference to these lands and have made additions to the amounts estimated by the engineering department, totaling \$154,220.00 for operative lands other than tidelands, and \$57,574.00 for non-operative lands other than tidelands.

I come now to the tidelands. The following table shows the tidelands under consideration in this proceeding:

TABLE No. XIII.

Tidelands.

| | | |
|---|--------|-------|
| San Francisco-Oakland Terminal Railways, operative right of way through tidelands | 18.3 | acres |
| San Francisco-Oakland Terminal Railways, non-operative tidelands north of Thirty-fourth street..... | 83.14 | acres |
| Oakland Terminal Company, submerged tidelands..... | 310.93 | acres |
| Total | 412.37 | acres |

In compliance with this Commission's order dated October 17, 1912, San Francisco-Oakland Terminal Railways heretofore filed with this Commission as of June 30, 1912, an inventory of its real property, together with values claimed therefor. This inventory shows that for the 18.3 acres of right of way owned by San Francisco-Oakland Terminal Railways, the company claimed a present value of \$10,000.00 per acre and a present railroad value of \$20,000.00 per acre. The latter price applies to all the filled tidelands operated by the company as right of way. With reference to the 83.14 acres of non-operative tidelands owned by San Francisco-Oakland Terminal Railways, the company reported a present market value of \$10,000.00 per acre and a present railroad value in the same amount. This report was prepared by Angus Clark, for many years in charge of the land department of San Francisco-Oakland Terminal Railways and its predecessors, and was filed by the company as its report. This filing was prepared before San Francisco-Oakland Terminal Railways filed its petition (Application No. 1152) for authority to issue bonds of a par value of \$10,000,000.00. Mr. Clark testified that a portion of the Oakland Terminal Company's tidelands had been partially filled as the result of the city of Oakland's filling a portion of its tidelands, and that there has not been any particular increase in land values in Oakland since June 30, 1912.

Mr. Woodward estimated the value of the submerged tidelands at 50 cents per square foot, or \$21,780.00 per acre, and the value of the filled land at \$1.00 per square foot, or \$43,560.00 per acre. Mr. E. C. Sessions estimated the value of the submerged tidelands at 50 cents per square foot. He gave no sale prices in support of his estimate. He testified that he and his family are the owners of considerable tideland property in Oakland, and that he was unacquainted with any actual transactions with reference to the particular tidelands which we are now considering. Reference will hereinafter be made to these transactions with which Mr. Sessions was not familiar.

Mr. Wells estimated the value of all the tidelands at 17.2 cents per square foot, or \$7,500.00 per acre. He added that the cost of filling

the filled lands was included in the engineering department's estimates for grading, and that the amount thus included should be added to his allowance of \$7,500.00 per acre, so as to be comparable with the amount estimated by the company's witnesses as the value of the filled land.

Referring to the tidelands, Mr. Woodward, in his report, says:

"In my opinion the 310.93 acres and 83.14 acre tract of tidelands, a large portion of which has already been partially filled and which your company owns through its ownership of the entire stock of the Oakland Terminal Company, is exceptionally well located, lying as it does, back and protected by the Oakland City seawall and fill, a work but recently completed, adjacent on the south and east to the main line tracks of the Southern Pacific Railroad Company, and on the north the tracks of your company and through them, in turn, easily connected with the terminal yards and tracks of The Atchison, Topeka and Santa Fe Railway and Western Pacific Railway. In view of these advantages of location, and the fact that the tract is now protected so that it can be readily and economically filled in by dredging, and in view of the fact that it lies directly at the front door, as it were, of the growing cities of Oakland and Berkeley and can be made available for industrial purposes adjacent to a deep-water frontage entirely free from the interruption on account of passage through drawbridges suffered by the so-called 'inner harbor' of Oakland, I consider the valuation of 50 cents per square foot which I have placed on this property as fully justified and representing a fair value in its present condition. Another and very important point in determining the value of this land is its proximity to San Francisco, its accessibility and desirability to the manufacturers of freight and merchandise. In other words, it is a part and parcel of the land constituting the terminus of three transcontinental railways in the great harbor of San Francisco and is practically in the center of a population of nearly one million people."

Mr. Woodward also drew attention in his testimony to the fact that only four streets had been laid out through this property and that for that reason it would be very available for large enterprises, such as the United States Steel Corporation or a railway. Mr. Woodward testified that there had not been any current sales of similar property in large tracts, but relied on the prices paid by the city of Oakland, partly in condemnation proceedings and partly by private negotiations, for water front lands fronting on the estuary and extending from Broadway west. The prices paid for these lands varied from 60 cents per square foot for the fee plus 20 cents per square foot for a leasehold interest, making 80 cents per square foot up to \$3.50 per square foot. It should be said that these lands form part of a strip of land some 150 feet wide severed from first class industrial property in active use near the business center of Oakland, and particular attention should be drawn to the fact that these lands front on deep water, so that vessels may moor to them.

Mr. Woodward also relied on the price at which the Southern Pacific Company is said to hold its filled-in tidelands south of the Oakland mole, which price Mr. Woodward testified was from \$1.00 to \$1.50 per square foot. This testimony is not based on any actual sales, but represents simply the value which the Southern Pacific Company is said to place on these tidelands, without any detail as to the basis on which the value is estimated.

Mr. Woodward testified that the submerged tidelands could be filled for about 3 cents per square foot. As already said, he estimates the value of the submerged tidelands at 50 cents per square foot and the value of these lands when filled at \$1.00 per square foot. He also testified that savings banks would have no right to loan money on the tideland properties for the reason that they are still in an undeveloped state.

Mr. Wells referred to a number of facts which, in his opinion, have a bearing on the present value of the tidelands. He drew attention to the fact that the tidelands of Oakland Terminal Company are not located on deep water and that the tidelands of the city of Oakland intervene between the tidelands of Oakland Terminal Company and deep water. Hence, no vessel can ever moor to the lands of Oakland Terminal Company. The only way in which access can be gained from these lands to deep water would be over the lands of the city of Oakland or over the 1,000-foot strip of land referred to in Ordinance No. 3099. Mr. Wells also drew attention to the fact that these lands can not be developed until the city of Oakland develops the lands which are in front of them, that the bond money voted by the city of Oakland for the development of these lands is almost exhausted, and that it is problematical when the city of Oakland will vote additional moneys to complete the work which is now only partially performed. He drew attention, further, to the fact that it is the present policy of the city of Oakland to develop the tidelands on its southern water front before completing the development of the tidelands on its western water front. Mr. Wells testified that for warehouse purposes in connection with the business in and about Oakland, other lands nearer to the business center of the city are more desirable and that a large acreage of land is available for this purpose. He testified that the highest use to which these lands could be devoted would probably be for railroad terminals, but that it is entirely conjectural when the lands will be developed and when they will be used, if at all, for railroad terminals.

Mr. Wells referred to a number of actual sales of property more or less comparable to that now under consideration.

In or about 1907 Southern Pacific Company purchased from the "Key Route" a portion of the very tract now under consideration, for the

purpose of eliminating what is known as "death curve" on the Southern Pacific Company's line extending along the water front on to the Oakland mole. The area of this land was about seven acres and the price paid, according to the records of the Southern Pacific Company, was \$42,074.66, or about \$6,000.00 per acre, or 14 cents per square foot. He drew attention to the fact that on May 31, 1912, the Key Route purchased lot 28 in section 22, a portion of the Key Route basin tract, paying the sum of \$3,730.00 per acre. This tract was acquired from the Realty Syndicate and contained 12.03 acres. At the time this property was purchased it was entirely surrounded by property of the purchaser, and this fact undoubtedly decreased the value of the property. Mr. Wells testified that Western Pacific Railway Company purchased a considerable area of submerged water front tideland in San Francisco, lying east of Kentucky street. This property was purchased just prior to 1906. The average price paid was 16 cents per square foot, or about \$7,000.00 per acre. In preparing an inventory and appraisal of its real property for filing with this Commission, Western Pacific Railway Company placed on its San Francisco water front property a value of 25 cents and 30 cents per square foot, amounting to \$10,890.00 and \$13,068.00 per acre. Mr. Wells also drew attention to the fact that the San Francisco Realty Board has recently appraised 103 acres of land lying south of Islais Creek and having a full water front there, at 10 cents per square foot, or \$4,356.00 per acre. Mr. Wells also drew attention to certain purchases of lands on or near the water front of Oakland by Western Pacific Railway Company several years ago. He testified that the Realty Syndicate is holding a large acreage between Sixteenth street and the Yerba Buena shops in Oakland at 30 cents per square foot, or \$13,068.00 per acre. This land has streets surveyed through it, but at the present time is partly marsh land and will necessitate some filling before it can be used advantageously. The property can be served by the Santa Fe and the Southern Pacific, and is available for warehouse and industrial purposes.

Mr. Wells also relies in part on the value claimed by the Southern Pacific Company for its filled right of way lying directly east of the tidelands to which I have been referring and adjoining the same, which land is valued by the Southern Pacific Company at 39 cents per square foot, or \$16,988.00 per acre. While allowance must be made in comparing certain of the lands to which Mr. Wells refers with the tidelands now under consideration, the appraisals and sales of these properties furnish the best concrete basis discovered by him for ascertaining the value of the tidelands owned directly or indirectly by San Francisco-Oakland Terminal Railways.

Valuations placed upon property by city and county assessors sometimes have value, particularly if it is shown that the assessors seek to

apply a uniform percentage of market value. Mr. Wells testified that the 310 acres of Oakland Terminal Company's land lying between Seventh street and Thirty-fourth street is assessed by the city of Oakland for \$470,000.00, or \$1,516.00 per acre. The 83.14 acres of submerged tidelands belonging to San Francisco-Oakland Terminal Railways and lying immediately north of the tract just referred to are assessed at \$540.00 per acre. The 18.3 acres of tidelands belonging to San Francisco-Oakland Terminal Railways and constituting its right of way over the tidelands is assessed by the city of Oakland at \$385.00 per acre. The city assessor of Oakland has established an assessed value of land, being generally about 50 per cent of the assumed market value. On the basis of 50 cents per square foot, being the value claimed for submerged tidelands by Mr. Woodward, the assessed value of the 310 acre tract is 7 per cent of the value claimed by the company, the assessed value of the 83.14 acre tract is 2.1 per cent of the value claimed by the company and the assessed value of the 18.3 acre tract is 1.8 per cent of the value claimed by the company. If Mr. Woodward's value of \$1.00 per square foot for the 18.3 acre tract is taken, the value reported by the assessor is .9 of 1 per cent of the value claimed by the company. It must be evident either that the value claimed by the company for its tidelands in this proceeding is very considerably higher than the actual value or that the value on which the company pays taxes is ridiculously low.

It is extremely difficult for any one to say what these tidelands are reasonably worth at the present time. Any value assigned to them must, in the very nature of things, be largely speculative. The lands are not in actual use for industrial purposes at the present time, nor can they be so used until they are filled in and until a demand for such use arises. While they will ultimately undoubtedly be extremely valuable for industrial or railroad terminal purposes, the use to which they will actually be put and the time when they will be used are both problematical. It must be remembered that these lands do not front on deep water and that at the present time they are simply submerged tidelands. The value which they may at some time in the future possess is not today's value, although today's value must be arrived at by considering, at least in part, the purposes to which they are adaptable and to which they will hereafter at some time be used.

I have given careful thought to the value to be assigned to these lands in this proceeding. My best judgment, based on the evidence in this proceeding, and on a personal inspection of these lands, is that their present value is somewhere between \$10,000.00 and \$14,000.00 per acre. For the purpose of the present proceeding, I shall assign to them a value of \$12,500.00 per acre. If, in any subsequent proceeding, the

company still insists on a higher value, it will be accorded the opportunity to present additional evidence.

The filled tidelands are, of course, worth more than those which are submerged. Mr. George K. Weeks, president of San Francisco-Oakland Terminal Railways, testified that filled tidelands are worth more than the value of submerged tidelands plus the cost of filling the same, and this is undoubtedly the case. In the present proceeding, the engineering department has allowed for the filled lands its estimated value of submerged tidelands plus the entire expense which has been incurred in filling them, which expense was abnormally high. In view of the fact that there are only a few acres of filled land and that the Commission is allowing, for the purposes of this proceeding, a value of \$2,500.00 per acre for all of the submerged tidelands in excess of the value claimed by the company in its report to this Commission less than two years ago, I am of the opinion that substantial justice will be done in this case by following with reference to filled lands the method pursued by the engineering department.

(b) *Franchises.*

While the engineering department has dealt with the question of franchise values in connection with operative right of way, it will be desirable in this proceeding to discuss this item under a separate head.

The engineering department ascertained the consideration actually paid by San Francisco-Oakland Terminal Railways and its predecessors for their franchises, some 134 in number, and the advertising costs incurred in connection with those franchises as to which data on this subject were available. The department then applied the average known cost of advertising to all the franchises and added the total amount thus secured to the total consideration actually paid to the public for franchises. By adding to this total 5 per cent for cost of acquisition and 12 per cent for interest during construction, the department reached its total of \$110,340.00 for this item.

The company presented a tabulation in which a total of \$173,336.00 is claimed. The chief difference between this estimate and that of the engineering department lies in the fact that the company, after ascertaining the average price paid for franchises in all cases in which records of payment could be discovered, applied this average price to all the franchises. This method seems inaccurate for the reason that in many cases no compensation was paid for the franchise. The engineering department made a careful examination of the public records of all political subdivisions which have granted franchises to San Francisco-Oakland Terminal Railways or its predecessors, in order to ascertain all sums of money paid for these franchises, and satisfied itself that the sum allowed by it represents the total of all moneys actually paid, and this amount should stand.

After the company had filed the Woodward real estate appraisal, in which no claim was made for the item about to be considered, and after Mr. Woodward had testified, the company, apparently as an afterthought, presented a claim for at least \$3,100,000.00 for the rights granted to San Francisco, Oakland and San Jose Consolidated Railway by Ordinance No. 3099 of the city of Oakland, adopted June 20, 1910.

This ordinance grants to San Francisco, Oakland and San Jose Consolidated Railway, its successors and assigns, "the right, privilege and franchise to construct and maintain for the term of fifty (50) years from the passage of this ordinance freight and passenger depots, engine houses, workshops, wharves, docks, slips, ferries, landing places and other terminal facilities and railroads" upon a strip of land 1,000 feet wide in the bay of San Francisco extending from the northern boundary line of the city of Oakland, as established by the act of April 24, 1862, out to the United States pierhead line. This is the property on which the present "Key Route" pier is located and is located entirely in the navigable waters of San Francisco Bay beyond the low tide line of 1852.

Section 2 grants to the grantee the right, in common with others, for the term of fifty years, to use a fairway 1,000 feet wide immediately north of the 1,000 foot strip of land hereinbefore referred to, and also a fairway 1,000 feet wide immediately south of said 1,000 foot strip.

Section 3 establishes the line of ordinary low tide as of May 4, 1852, between the Oakland mole, operated by the Southern Pacific Company, and the northerly boundary line of the city of Oakland, which line marks the boundary between the lands of Oakland Terminal Company, lying adjacent to said line on the east and the submerged lands granted to the city of Oakland by the State of California in 1911 (Statutes 1911, p. 1258) lying adjacent to said line on the west.

Section 4 provides that the grantee shall reconvey to the city of Oakland all its right, title and interest in and to the rights and privileges to construct wharves, piers and docks along the westerly boundary line of the tidelands tract known as the Key Route basin, claimed to have been granted by the city of Oakland or the town of Oakland to Horace W. Carpentier or the Oakland Water Front Company. The grantee likewise is to dedicate to the city of Oakland the lands necessary for the extensions of Seventh street, Fourteenth street, Twenty-second street and Thirty-fourth street over and across the Key Route basin lands to the low tide line of 1852 and the submerged lands now owned by the city of Oakland, and to convey to the city of Oakland all its right, title and interest in and to all lands lying westerly of said low tide line of 1852, and between said Oakland mole and the northerly boundary line of the city of Oakland.

Section 5 provides that the rights conferred by the ordinance are granted on condition that the grantee shall within six months commence the exercise and enjoyment of the rights granted.

Section 6 provides that the grantee shall pay to the city of Oakland "as rent for the rights, privileges and franchises hereby granted," the sum of \$1,000.00 in each and every year during the first twenty-five years of the term and the sum of \$2,000.00 in each and every year during the second twenty-five years of the term.

Section 7 provides that the earth and rock fills, moles, piers, wharves, docks, ferry slips and pile structures constructed or to be constructed upon said 1,000 foot strip shall revert to the city of Oakland upon the expiration of the term of fifty years, and that the city of Oakland shall have the option within six months after expiration of said fifty-year term to purchase the structures upon said fills, moles, piers and wharves.

Section 8 provides that the rights conferred by the ordinance shall not become effective unless the grantee shall file a written acceptance within ninety days.

Section 9 provides that the ordinance shall take effect from and after its final passage and approval.

After introducing a copy of this ordinance the company recalled Mr. Woodward. In response to questions from the company's counsel, he testified that in view of the fact that the property is free from taxation "as real estate," as claimed by the company, and that the rent is merely nominal, the property is "greater in value than the fee would be at the present time." He thereupon testified that the value of the rights conferred exceeds the sum of \$3,100,000.00, and the company now claims this value.

I had supposed that these rights had been conferred upon the "Key Route" for the purpose of enabling the company to fulfill more economically and satisfactorily its duties to the public, and not for the purpose of enabling the company later to turn around upon the public under whose generous grant it claims these rights and to insist on enormous values for these same rights against the public. If claims of this character can be successfully urged, the public, when it realizes the situation, will prefer to grant no further franchises to private utilities, but will quickly prepare to own and operate its own utilities.

Section 52 of the Public Utilities Act provides in part as follows:

"The commission shall have no power to authorize the capitalization of the right to be a corporation, or to authorize the capitalization of any franchise or permit whatsoever or the right to own, operate or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, permit or right."

Mr. Jared How, counsel for San Francisco-Oakland Terminal Railways in this proceeding, admitted that if the rights granted by Ordinance No. 3099 constitute a franchise, the Commission has no power to authorize their capitalization except as permitted in the foregoing extract from section 52 of the Public Utilities Act. I refer to the following colloquy:

“COMMISSIONER THELEN: You take the position that this is not a franchise?

Mr. How: I take the position that it is not a franchise; it is a grant of a right of way.

COMMISSIONER THELEN: I assume if you took the position it is a franchise, then under the provisions of section 52 of the Public Utilities Act you could not expect the value of that franchise to be capitalized in a security application—that is, application for authority to issue stocks and bonds?

Mr. How: I think that the power of the Commission is plainly limited in that respect. I have never been satisfied that it ought to be, but I think it is plainly in the Public Utilities Act, and I should not question the action of the Commission, of course, in complying with the provisions of that. But I don't consider it to be a franchise, and the fact that it is called that, of course, cuts no figure.”

Mr. How contends that the rights granted amount to a grant or lease and not a franchise. He presented no authorities in support of this position, but the claim was urged with much earnestness and requires consideration.

On May 4, 1852, the legislature of California incorporated the town of Oakland by an act entitled “An act to incorporate the town of Oakland and to provide for the construction of wharves thereat.” Section 1 described the boundaries of the town, the westerly boundary being “the line of ship channel.” In *City of Oakland vs. Oakland Water Front Company*, 118 Cal. 160, the term “the line of ship channel” was held to mean the low tide line as it existed on May 4, 1852. See, also, *Western Pacific Railway Company vs. Southern Pacific Company*, 151 Fed. 376. Section 3 of the act of May 4, 1852, provides that the town should have the power to construct and regulate wharves, docks, piers and slips, and to authorize the construction of the same, and reads in part as follows:

“With a view to facilitate the construction of wharves and other improvements, the lands lying within the limits aforesaid between high tide and ship channel are hereby granted and released to said town, provided that said land shall be retained by said town as common property or disposed of for the purposes aforesaid.”

The trustees of the new town promptly proceeded to deed the entire water front lands thus granted to Horace W. Carpentier, whose title after a number of ordinances and acts of the legislature was finally

sustained in *City of Oakland vs. Oakland Water Front Company, supra*. The town also undertook to grant to Carpentier for the term of thirty-seven years the exclusive right and privilege of constructing wharves, piers and docks at any point within the corporate limits of the town. The rights so conferred expired in 1889, at which time they reverted *in toto* to the city of Oakland.

That the lands covered by navigable waters within the several states belong to the states, primarily for the purpose of preserving and improving the public rights of navigation and fishery, is clearly established. (*Illinois Central Railroad Company vs. Illinois*, 146 U. S. 387; *Oakland vs. Oakland Water Front Company*, 118 Cal. 160, 183; *Cimpher vs. City of Oakland*, 162 Cal. 87; *People vs. California Fish Company*, 166 Cal. 576; *People vs. Southern Pacific Railroad Company*, 166 Cal. 614; *Wheatley vs. Consolidated Lumber Company*, 167 Cal. 441.)

The city of Oakland can have no rights in these navigable waters except to the extent that the State of California has actually conferred rights upon the city.

The only powers conferred upon the city of Oakland by the act of May 4, 1852, with reference to wharves, docks, piers and slips were "to lay out, make, open, widen, regulate and keep in repair * * * wharves, docks, piers and slips, * * * and to authorize the construction of the same, and with a view to facilitate the construction of wharves and other improvements, the lands lying within the limits aforesaid, between high tide and ship channel, are hereby granted and released to said town, provided that said lands shall be retained by said town as common property, or disposed of for the purposes aforesaid"; and "to regulate and collect wharfage and dockage."

By act of March 16, 1909 (Statutes 1909, p. 1320), the legislature approved certain amendments to the charter of the city of Oakland, which amendments were apparently in effect when Ordinance No. 3099 was adopted. Subdivision 52 of section 31 of the charter, added to the charter at this time, gives the city power to provide for "the construction, maintenance and use of and on the water front of the city of Oakland, wharves, docks, slips, warehouses, railroads and all other necessary or desirable improvements"; also "to grant franchises as now or hereafter provided by law, and also for the construction and use of wharves, docks, slips, warehouses, railroads and railroad terminals on the water front."

By neither of the foregoing statutory provisions nor by any other statute which has come under my observation and which was in effect on June 20, 1910, did the State of California ever undertake to confer upon the city of Oakland the right to grant or even lease any part of the submerged lands belonging to the State. The only rights conferred

in this respect were to wharf out, or to authorize others to wharf out, into the navigable waters of the State. This right, it is fundamental, can be exercised only by the sovereign or by consent from him, and clearly constitutes a franchise. The city of Oakland had no power on June 20, 1910, to confer upon the "Key Route" any rights in and over the submerged lands other than as specifically authorized by the State, and the State had authorized nothing further than the grant of the right to wharf out, clearly a franchise right. Hence, I am of the opinion that the rights conferred by Ordinance No. 3099, in so far as material in this connection, assuming those rights to be valid, amounted only to a franchise or permit, as those words are used in section 52 of the Public Utilities Act, and not in any sense a grant or lease. Accordingly, this Commission is without jurisdiction to authorize their capitalization except to the extent authorized by section 52 of the Public Utilities Act.

As heretofore stated, the Commission is herein seeking to make a finding on "the estimated cost in cash of acquiring the operative right of way and other operative real estate" and other property of the San Francisco-Oakland Terminal Railways. It is not to be presumed, even on the reproduction theory, that it would have cost more on June 30, 1914, to secure the rights granted by Ordinance No. 3099 than it cost on June 20, 1910. This brings me to an analysis of the consideration actually paid for these franchise rights.

The company urges that a very material consideration was the grant by San Francisco, Oakland and San Jose Consolidated Railway to the city of Oakland of all the grantor's rights west of the low tide line of 1852. However, the Supreme Court of California (*City of Oakland vs. Oakland Water Front Company, supra*) and the Federal Circuit Court of Appeals for the Ninth Circuit (*Western Pacific Railway Company vs. Southern Pacific Company, supra*) had already decided that the title to the submerged lands west of the low tide line of 1852 was in the State of California and not in the city of Oakland or any person holding under the city. Hence, although it was undoubtedly pleasant for both parties to escape litigation, I can find in this argument nothing on which to allow value in this proceeding.

It is next urged that the city benefited materially by having the low tide line of 1852 (the boundary between the submerged lands now owned by the city and the lands of Oakland Terminal Company) definitely established. It is pointed out that this line could not be definitely marked out and that it was very desirable to the city that it be definitely established. This argument applies equally to the other party. It is impossible to say which party gave up or won the larger acreage, although such data as are available would seem to show that the city gave up more land than it received. The entire acreage as to which the dispute existed was only a few acres in any event.

It is next urged that the "Key Route" agreed to construct valuable piers, wharves, and docks and that the city thus received a valuable consideration. The ordinance, however, confers upon the grantee the *privilege* to do these things and does not make it *compulsory* to do so.

The "Key Route," however, agreed to dedicate to the city over the tidelands of the "Key Route basin" the necessary land for the extension of four streets, namely Seventh, Fourteenth, Twenty-second and Thirty-fourth. This was clearly a valuable consideration moving to the city. Mr. Wells testified that the area to be dedicated is 12.86 acres. Based on the price paid by the Key Route for the 12-acre tract in the Key Route basin hereinbefore referred to, in 1912, being \$3,700.00 per acre, Mr. Wells estimated that the value of the consideration received by the city in this respect was \$47,582.00. While the company draws attention to the fact that the 12-acre tract was not at the time of its purchase directly accessible over a public street, this is, of course, also true as to the lands which the Key Route agreed to dedicate to the city for streets. The item of \$47,582.00 should be added to the amount allowed by the engineering department under the head of franchises. Also, there should be added, due to an error made in estimating the cost of advertising the company's franchise, the amount of \$3,857.00 plus 5 per cent for contingencies, and 12 per cent for interest.

For the remaining items included in Account 2, right of way, I find the following values:

| | |
|---|---------------------|
| Leased lands—Cost during construction period..... | \$17,526 00 |
| Easements—Original cost to railway..... | 470 00 |
| Street widening—Original cost to railway..... | 116,192 00 |
| Total | \$134,188 00 |

I find that the total reproduction cost, as this term has hereinbefore been defined, of the land accounts of San Francisco-Oakland Terminal Railways, based on the "reproduction cost" method which includes multiples, cost of acquisition, and interest during construction, and the total reproduction cost based on the method outlined by the Supreme Court of the United States in the *Minnesota Rate Case*, which eliminates multiples, cost of acquisition and interest during construction, is as follows:

| | Reproduction cost | United States Supreme Court |
|--------------------------------|-----------------------|--------------------------------|
| <i>Operative property—</i> | | |
| Account 2, right of way..... | \$2,087,733 00 | \$1,468,210 00 |
| Account 3, other lands..... | 1,119,198 00 | 865,181 00 |
| <i>Non-operative property—</i> | | |
| Account 2, right of way..... | 619,833 00 | 619,833 00 |
| Account 3, other lands..... | 1,666,084 00 | 1,666,084 00 |
| Oakland Terminal Company | 3,886,625 00 | 3,886,625 00 |
| Totals | \$9,379,473 00 | \$8,505,933 00 |

(c) Other accounts.

As a result of the conferences held between the Commission's engineers and the company's engineers, the Commission's engineers have now recommended that the sum of \$678,060.46 be added under the head of reproduction cost to their original estimate under the accounts (exclusive of I. C. C. Accounts 1 and 2) shown on Exhibit A under the head of reproduction cost. This allowance is the result of more detailed information as to quantities as well as increased unit prices in certain cases.

At the hearing of April 20, 1915, it appeared from the statement of Mr. Augustus S. Kibbe, the company's valuation engineer who handled all the accounts for the company except the land accounts, that a complete agreement had finally been reached between him and the Commission's engineers except on five items of physical property and the overhead percentages. I shall now discuss these remaining points of difference.

Mr. Kibbe desired that further consideration be given to the question of grading quantities on the Sacramento and California street lines. This has now been done and certain additional allowances have been made by the engineering department. A comparison, including all adjustments, between the engineering department's original report and its revised report is as follows:

| | Reproduction cost |
|--|----------------------|
| Grading—original report | \$1,258,871 00 |
| Grading—revised report | 1,357,701 00 |
| Total addition to original report..... | \$98,830 00 |

Mr. Kibbe was of the opinion that certain adjustments were still necessary in the ballast account. The engineering department has given further consideration to this item and has increased its additional allowance from \$73,520.00, testified to at the hearing, to \$78,619.00. The department increased its unit price for ballast and also reached an agreement with Mr. Kibbe on the sources and the methods and rates for haul, resulting in an increased allowance for haul. Certain additions in quantities were also made.

Mr. Kibbe further asked an allowance for certain extraordinary expenses under the head of paving, being \$3,393.00 additional cost of paving, on the Claremont line, and \$3,927.00 on the West Fourteenth street line, and \$3,450.00 on the Twenty-third avenue line in cases in which a narrow gauge double track was replaced by a single gauge standard track, necessitating repaving. The engineering department's estimate is based on the reproduction of the property as it existed on June 30, 1914, and hence no allowance was made for these items. If

original cost were taken as the basis, there would be an increase of \$10,770.00 in this account, with reductions amounting to several million dollars in the land accounts. The engineering department has increased its allowance for this account, for other reasons, from \$1,599,273.00 testified to at the hearing, to \$1,562,108.00.

Mr. Kibbe testified that his records showed 50,000 square feet more of paving in crossings than was allowed by the engineering department. Such adjustment as further investigation showed to be necessary has been made by the engineering department, and the amount allowed under this account has been increased from \$166,320.00, testified to at the hearing, to \$167,327.00.

Mr. Kibbe further asked that an additional allowance of \$4,359.00 be made for power plant equipment, on the piecemeal construction theory. The engineering department made its estimate on the basis of reproduction as a whole in the present condition of the building. Certain minor changes have been made by the department, increasing the additions from \$34,440.91, testified to at the hearing, to \$38,430.24, an increase of \$3,989.33.

Finally, Mr. Kibbe asked that additional allowance be made under the head of overhead percentages.

He asked that the allowance for contingencies be increased from an average of 4.25 per cent to an average of 6.68 per cent of the accounts on which contingencies must be allowed. In passing on this request, I bear in mind the fact that the company's construction records were not efficiently kept, that it had no complete inventory of its property, and that it has taken the combined labors of the Commission's engineers and the company's engineers over a number of months to secure an inventory and appraisal which have finally been practically agreed upon as to physical structures. The difficulty of securing the necessary information from the books of the company renders of but little value in this proceeding the appraisals of Gibbs & Hill, W. A. Cattell and J. G. White & Company, which were apparently based largely on information supplied by officials of the company who did not have accurate knowledge of the property and are unsupported by the necessary details. The same lack of information from the records of the company has resulted in the increase of \$678,060.46 over its original estimate of reproduction cost now conceded by the engineering department. While this amount is less than 3 per cent of the reproduction cost of the entire property, as originally estimated by the engineering department, and less than 4 per cent of the reproduction cost of the entire property less real estate, as originally estimated, it is nevertheless a substantial amount and a distinct reflection of the unsatisfactory conditions under which the engineering department's inventory and appraisal were

begun. While it may be urged that by reason of the thorough combing over which the inventory in this proceeding has had during the last few months, practically all the property has now been accounted for, I am mindful of Mr. Kibbe's view that the inventory is still incomplete. In order to be certain that the Commission is doing full justice to the company, I shall recommend that the allowance for contingencies, on the special facts of this proceeding, be increased 25 per cent over the allowance made by the engineering department.

Mr. Kibbe asked that the allowance for engineering be increased from 5 to 7 per cent on Accounts 4 to 33, and that an allowance of 2 per cent be made on certain additional accounts. An analysis of the moneys expended by the company during the years 1910 to 1914, inclusive, for engineering on construction work, as presented by Mr. Kibbe, shows an average of 5.01 per cent. On the showing made, I am satisfied to let the 5 per cent allowed by the engineering department on the entire work stand.

I have already discussed the company's claim to an allowance of 7 per cent instead of 6 per cent for interest during construction, and it is unnecessary to repeat the discussion here.

At the hearing on April 20, 1915, the engineering department proposed a decrease of \$36,262.00 in the item of culverts constructed in public streets. Such culverts, like pavement in the public streets, belong to the public. The engineering department was willing to allow such expenditures as had actually been incurred by the company on such culverts, but stated that it had not been convinced that the company had paid for culverts any sum in excess of \$20,588.00. The company presented testimony to show that it nearly always pays for culverts under its tracks in the public streets. Further conferences between the engineers have resulted in a recommendation from the engineering department that an allowance of \$58,027.00 be made for culverts, under reproduction cost. This allowance will be made.

After careful consideration of all the evidence presented in this case, I find that the reproduction cost, as that term has hereinbefore been defined, of the operative property of San Francisco-Oakland Terminal Railways, as of June 30, 1914, allowing multiples, cost of acquisition and interest during construction on land, is the sum of \$20,354,746.82. If multiples, cost of acquisition and interest during construction are not allowed on land, the reproduction cost of the operative property is the sum of \$19,481,206.82.

These totals, as well as those found under the head of reproduction cost less depreciation, include allowances for the Key Route pier, which is being displaced by the fill, and also full allowance for the Yerba Buena power station, although it has been leased for a nominal sum.

If the reproduction cost of the non-operative property, found to be \$6,558,118.38, is added to the foregoing sums, the total reproduction cost of the property, both operative and non-operative, of San Francisco-Oakland Terminal Railways and of Oakland Terminal Company, as of June 30, 1914, is found to be \$26,912,865.20, if multiples, cost of acquisition and interest during construction are allowed on operative lands, and \$26,039,325.20 if these items are not allowed.

6. Reproduction Cost Less Depreciation.

The company submitted no estimate of the reproduction cost less depreciation, claiming that a finding under this head would not be of value and that reproduction cost alone should be considered. That the company's property is physically 100 per cent perfect is, of course, not true. The Commission will make its findings under this head, as usual, based on the straight line method of depreciation, modified, when necessary, by the results of inspection.

The corrections necessary in the engineering department's estimate, due to changes in the estimate for reproduction cost, will be found in the appropriate column in Exhibit "B" attached hereto.

I find that the reproduction cost less depreciation, as that term has hereinbefore been defined, of the operative property of San Francisco-Oakland Terminal Railways, as of June 30, 1914, allowing multiples, cost of acquisition and interest during construction on land, is the sum of \$17,314,213.30. If multiples, cost of acquisition and interest during construction are not allowed on land, the reproduction cost less depreciation of the operative property is the sum of \$16,440,673.30.

If the reproduction cost less depreciation of the non-operative property of San Francisco-Oakland Terminal Railways, including the property of Oakland Terminal Company, found to be \$6,327,680.00, is added to the foregoing sums, the total reproduction cost less depreciation of the property, both operative and non-operative, of San Francisco-Oakland Terminal Railways, as of June 30, 1914, including the property of Oakland Terminal Company, is found to be \$23,641,893.30, if multiples, cost of acquisition and interest during construction are allowed on operative lands, and \$22,768,353.30 if these items are not allowed.

The foregoing opinion and findings are hereby approved and ordered filed as the opinion and findings of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of May, 1915.

EXHIBIT "A."

Owning company, San Francisco-Oakland Terminal Railway; operating company, same; valuation unit, entire system; Alameda, Contra Costa and San Francisco counties.
 Submitted with report of Richard Sachs, chief engineer; date compiled, December, 1914; main line first track, 114.93 miles; main line second track, 99.38 miles; yard tracks, sidings, etc., 21.36 miles; total, 257.27 miles.

| Class No. | Form No. | I. C. C. Acct. No. | Classes | Original cost | Reproduction value | Cond. per cent | Present value |
|-----------|----------|--------------------|--|---------------|--------------------|----------------|-----------------|
| 40 | --- | 1 | Engineering | | \$490,654 18 | 100 | \$490,654 18 |
| 1 | 1 | 2 | Right of way | | 1,698,268 00 | 100 | 1,698,268 00 |
| 2 | 2 | 3 | Other land used in electric railway operations | | 979,189 00 | 100 | 979,189 00 |
| 3 | 3 | 4 | Grading | | 1,258,871 00 | 101 | 1,270,933 00 |
| 4 | 4 | 5 | Ballast | | 557,335 00 | 100 | 557,335 00 |
| 5 | 5 | 6 | Ties | | 412,773 00 | 59 | 244,193 00 |
| 6 | 6 | 7 | Rails | | 1,290,425 00 | 65 | 785,150 00 |
| 7 | 7 | 7 | Track fastenings and joints | | 293,871 00 | 73 | 212,807 00 |
| 8 | 8 | 8 | Special work | | 349,756 00 | 95 | 277,701 00 |
| 9 | 9 | 8 | Frogs and switches | | 25,537 00 | 73 | 18,742 00 |
| 10 | 10 | 9 | Underground construction | | | | |
| 11 | 11 | 10 | Paving | | 1,496,653 00 | 84 | 1,232,146 00 |
| 12 | 12 | 11 | Tracklaying and surfacing | | 741,404 00 | 78 | 574,956 00 |
| 13 | 13 | 12 | Roadway tools | | 34,029 00 | 86 | 27,441 00 |
| 14 | 14 | 13 | Tunnels | | | | |
| 15 | --- | 14 | Elevated structures and foundations | | | | |
| 16 | 15 | 15 | Steel bridges and trusses | | | | |
| 17 | 16 | 15 | Pile and frame trestles | | 5,743 00 | 60 | 3,391 00 |
| 18 | 17 | 15 | Culverts | | 56,850 00 | 91 | 50,341 00 |
| 19 | 18 | 16 | Fences and cattle guards | | 585 00 | 87 | 507 00 |
| 20 | 19 | 16 | Crossings and signs | | 153,139 00 | 83 | 127,488 00 |
| 21 | 20 | 17 | Interlocking plants | | 69,969 00 | 79 | 55,213 00 |
| 22 | 21 | 17 | Signal apparatus | | 58,182 00 | 89 | 51,981 00 |
| 23 | 22 | 18 | Telegraph and telephone lines | | 2,110 42 | 79 | 1,687 58 |
| 24 | 23 | 19 | Poles and fixtures | | 480,265 61 | 78 | 373,512 83 |
| 25 | 24 | 20 | Underground conduits | | | | |
| 26 | 25 | 21 | Transmission system | | | | |
| 27 | 26 | 22 | Distribution system | | 695,121 65 | 82 | 591,883 11 |
| 28 | 27 | 23 | Dams, canals and pipe lines | | | | |
| 29 | 28 | 24 | Power plant buildings | | 94,124 33 | 78 | 73,101 52 |
| 30 | 29 | 25 | Sub-station buildings | | 7,251 20 | 95 | 6,888 64 |
| 31 | 30 | 26 | General office buildings | | 42,176 59 | 91 | 38,299 99 |
| 32 | 31 | 27 | Shops and car houses | | 229,827 24 | 80 | 183,844 94 |
| 33 | 32 | 28 | Stations and waiting rooms | | 105,489 21 | 83 | 83,936 55 |
| 34 | 33 | 28 | Miscellaneous buildings | | 49,412 17 | 91 | 44,755 00 |
| 35 | 34 | 29 | Docks and wharves | | 413,237 93 | 52 | 232,141 86 |
| 36 | 35 | 30 | Power plant equipment | | 740,885 67 | 76 | 544,459 19 |
| 37 | 36 | 31 | Sub-station equipment | | 69,920 00 | 89 | 61,054 00 |
| 38 | 37 | 32 | Shop equipment | | 166,461 00 | 76 | 127,069 25 |
| 39 | 38 | 33 | Park and resort property | | | | |
| 41 | --- | 34 | Cost of road purchased | | 71,851 57 | 100 | 71,851 57 |
| 42 | --- | 42 | Injuries and damages | | | | |
| 43 | 39 | 35 | Cars | | 1,655,788 90 | 75 | 1,243,719 77 |
| 44 | 40 | 35 | Freight train cars | | | | |
| 45 | 41 | 36 | Steam locomotives | | | | |
| 46 | 42 | 36 | Electric locomotives | | 3,270 43 | 83 | 2,517 16 |
| 47 | 43 | 37 | Electric equipment of cars | | 1,035,876 29 | 74 | 822,337 70 |
| 48 | 44 | 38 | Other rail equipment | | 82,512 96 | 79 | 65,279 87 |
| 49 | 45 | 39 | Miscellaneous equipment | | 1,215,532 88 | 78 | 974,967 66 |
| 50 | --- | 40 | Law expenses | | 245,032 08 | 100 | 245,032 08 |
| 51 | 46 | 43 | Taxes | | 69,401 24 | 100 | 69,401 24 |
| 52 | 46 | 44 | Miscellaneous | | 38,914 95 | 100 | 38,914 95 |
| 53 | --- | 41 | Interest | | 967,330 77 | 100 | 967,330 77 |
| 55 | 47 | --- | Stores and supplies on hand for use in California | | 248,781 00 | 100 | 248,781 00 |
| | | | Grand total | | \$18,959,281 70 | 84 | \$16,011,876 44 |
| | | | Average per mile for main track | | 86,571 51 | 84 | 68,045 85 |
| | | | Total, "Road," I. C. C. Accounts 1-34, inclusive | | 12,968,844 63 | 85 | 11,011,167 67 |
| | | | Total, "Equipment," I. C. C. Accounts 35-49, inclusive | | 4,078,965 45 | 76 | 3,080,251 16 |
| | | | Total, "General," I. C. C. Accounts 40-41, inclusive | | 1,692,720 61 | 100 | 1,662,720 61 |
| | | | Total, non-operative property (not included in above totals) | | 4,514,077 24 | 94 | 4,331,844 51 |
| | | | Total land, operative and non-operative | | 6,857,926 00 | 100 | 6,857,926 00 |

EXHIBIT "B."

Owning company, San Francisco-Oakland Terminal Railways; operating company, same; valuation unit, entire system; Alameda, Contra Costa and San Francisco counties.

Submitted with report of Richard Sachs, chief engineer; date compiled, May 17, 1915; main line first track, 111.93 miles; main line second track, 30.38 miles; yard tracks, sidings, etc., 21.96 miles; total, 257.27 miles.

| Class No. | Form No. | I. C. C. Acct. No. | Classes | Original cost | Reproduction value | Cond. per cent | Present value |
|-----------|----------|--------------------|--|---------------|--------------------|----------------|-----------------|
| 40 | 1 | 1 | Engineering | | \$521,836 00 | 100 | \$521,836 00 |
| 1 | 2 | 2 | Right of way | | 2,087,733 00 | 100 | 2,087,733 00 |
| 2 | 3 | 3 | Other land used in electric railway operations | | 1,119,198 00 | 100 | 1,119,198 00 |
| 3 | 4 | 4 | Grading | | 1,388,216 00 | 102 | 1,415,981 00 |
| 4 | 5 | 5 | Ballast | | 647,599 00 | 100 | 647,599 00 |
| 5 | 6 | 6 | Ties | | 415,186 00 | 59 | 245,632 00 |
| 6 | 7 | 7 | Rails | | 1,229,149 00 | 65 | 804,306 00 |
| 7 | 8 | 8 | Track fastenings and joints | | 310,376 00 | 73 | 227,217 00 |
| 8 | 9 | 9 | Special work | | 358,415 00 | 79 | 284,474 00 |
| 9 | 10 | 10 | Frogs and switches | | 25,841 00 | 73 | 18,965 00 |
| 10 | 11 | 11 | Underground construction | | 1,580,704 00 | 84 | 1,320,967 00 |
| 11 | 12 | 12 | Paving | | 787,317 00 | 78 | 610,757 00 |
| 12 | 13 | 13 | Tracklaying and surfacing | | 33,231 00 | 83 | 27,613 00 |
| 13 | 14 | 14 | Roadway tools | | | | |
| 14 | 15 | 15 | Tunnels | | | | |
| 15 | 16 | 16 | Elevated structures and foundations | | 8,052 93 | 92 | 7,408 71 |
| 16 | 17 | 17 | Steel bridges and trusses | | 14,125 00 | 78 | 11,008 00 |
| 17 | 18 | 18 | Pile and frame trestles | | 58,718 00 | 92 | 53,949 00 |
| 18 | 19 | 19 | Culverts | | 845 00 | 79 | 671 00 |
| 19 | 20 | 20 | Fences and cattle guards | | 169,219 00 | 84 | 142,181 00 |
| 20 | 21 | 21 | Crossings and signs | | 70,334 00 | 79 | 55,968 00 |
| 21 | 22 | 22 | Interlocking plants | | 58,710 00 | 89 | 52,381 00 |
| 22 | 23 | 23 | Signal apparatus | | 2,165 90 | 79 | 1,707 67 |
| 23 | 24 | 24 | Telegraph and telephone lines | | 569,736 84 | 78 | 396,711 41 |
| 24 | 25 | 25 | Poles and fixtures | | | | |
| 25 | 26 | 26 | Underground conduits | | | | |
| 26 | 27 | 27 | Transmission system | | 763,440 91 | 82 | 622,233 52 |
| 27 | 28 | 28 | Distribution system | | | | |
| 28 | 29 | 29 | Dams, canals and pipe lines | | 98,711 92 | 78 | 77,159 56 |
| 29 | 30 | 30 | Power plant buildings | | 7,295 42 | 95 | 6,939 64 |
| 30 | 31 | 31 | Sub-station buildings | | 42,433 77 | 91 | 38,903 95 |
| 31 | 32 | 32 | General office buildings | | 237,180 22 | 80 | 189,250 88 |
| 32 | 33 | 33 | Shops and car houses | | 101,132 46 | 80 | 84,478 43 |
| 33 | 34 | 34 | Stations and waiting rooms | | 49,713 46 | 91 | 45,027 90 |
| 34 | 35 | 35 | Miscellaneous buildings | | 454,678 14 | 53 | 241,623 00 |
| 35 | 36 | 36 | Docks and wharves | | 779,127 20 | 76 | 594,719 56 |
| 36 | 37 | 37 | Power plant equipment | | 61,334 25 | 81 | 51,466 75 |
| 37 | 38 | 38 | Sub-station equipment | | 138,066 75 | 76 | 128,422 19 |
| 38 | 39 | 39 | Shop equipment | | | | |
| 39 | 40 | 40 | Park and resort property | | 75,581 00 | 100 | 75,581 00 |
| 40 | 41 | 41 | Cost of road purchased | | | | |
| 41 | 42 | 42 | Injuries and damages | | | | |
| 42 | 43 | 43 | Cars | | 1,710,896 89 | 75 | 1,285,157 73 |
| 43 | 44 | 44 | Freight train cars | | | | |
| 44 | 45 | 45 | Steam locomotives | | 3,286 43 | 84 | 2,760 63 |
| 45 | 46 | 46 | Electric locomotives | | 1,161,957 11 | 73 | 868,795 45 |
| 46 | 47 | 47 | Electric equipment of cars | | 94,801 26 | 80 | 75,954 37 |
| 47 | 48 | 48 | Other rail equipment | | 1,246,610 93 | 78 | 977,380 95 |
| 48 | 49 | 49 | Miscellaneous equipment | | 260,918 00 | 100 | 260,918 00 |
| 49 | 50 | 50 | Law expenses | | 72,971 00 | 100 | 72,971 00 |
| 50 | 51 | 51 | Taxes | | 388,139 00 | 100 | 388,139 00 |
| 51 | 52 | 52 | Miscellaneous | | 954,823 00 | 100 | 954,823 00 |
| 52 | 53 | 53 | Interest | | | | |
| 53 | 54 | 54 | Stores and supplies on hand for use in California | | 279,275 00 | 100 | 279,275 00 |
| 54 | 55 | 55 | Grand total | | \$20,354,746 82 | 85 | \$17,314,213 30 |
| 55 | 56 | 56 | Average per mile for main track | | 86,561 84 | | 73,581 44 |
| 56 | 57 | 57 | Total, "Road," I. C. C. Accounts 1-34, inclusive | | 14,165,482 17 | 86 | 12,132,457 17 |
| 57 | 58 | 58 | Total, "Equipment," I. C. C. Accounts 35-39, inclusive | | 4,157,557 65 | 76 | 3,150,049 13 |
| 58 | 59 | 59 | Total, "General," I. C. C. Accounts 40-44, inclusive | | 1,752,432 00 | 100 | 1,752,432 00 |
| 59 | 60 | 60 | Total, non-operative property (not included in above totals) | | 6,558,118 38 | 96 | 6,327,680 00 |
| 60 | 61 | 61 | Total, operative and non-operative property | | 9,379,473 00 | 100 | 9,379,473 00 |
| 61 | 62 | 62 | Total land, operative and non-operative | | 26,912,865 20 | 88 | 23,641,803 30 |

Decisions Nos. 2413 and 2414, grade crossings; not printed. See end of volume.

DECISION No. 2415.

MT. KONOCTI LIGHT AND POWER COMPANY

vs.

JAMES A. GUNN, Jr.

Case No. 641.

Decided May 24, 1915.

REPORT OF THE COMMISSION.

ORDER DENYING APPLICATION FOR REHEARING.

Mt. Konocti Light and Power Company having on May 15, 1915, made application for rehearing herein, and it appearing to the Commission that there is no good reason why a rehearing should be had,

It is hereby ordered that said application be, and the same is hereby, denied.

Dated at San Francisco, California, this 24th day of May, 1915.

DECISION No. 2416.

IN THE MATTER OF THE APPLICATION OF PARLIER WINERY TO TRANSFER TO RIVER BEND GAS AND WATER COMPANY CERTAIN FRANCHISES AND OF RIVER BEND GAS AND WATER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING THE EXERCISE OF THE RIGHTS GRANTED UNDER SAID FRANCHISES.

Application No. 1530.

Decided May 24, 1915.

Parlier Winery authorized to transfer to River Bend Gas and Water Company franchises granted by the city of Reedley and the county of Fresno permitting of the construction and operation of a gas distributing system, and the latter company granted a certificate of public convenience and necessity permitting the exercise of rights thereunder, a like authorization also to be granted when applicant shall obtain a franchise from the city of Kingsburg, which has been applied for.

Chaffee E. Hall, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

Parlier Winery has been granted a franchise by the city of Reedley in Ordinance No. 37, passed on March 3, 1915, to operate a gas distributing system along the streets of that city. A copy of that franchise was filed in this proceeding as "Exhibit C." Parlier Winery also has a franchise granted by the county of Fresno on February 11, 1915, to operate a gas distributing system along the streets within the unincor-

porated town of Parlier and along the public highways between Parlier and Reedley, and between Parlier and Kingsburg. A copy of this franchise was filed in this proceeding as "Exhibit D." Parlier Winery, on March 12, 1915, made application to the city of Kingsburg for a franchise to operate a gas distributing system within that municipality. A copy of said application was filed in this proceeding as "Exhibit E."

Parlier Winery, which is not, itself, engaged in the gas business, and has no desire to engage in that business, asks authority to transfer these franchises to River Bend Gas and Water Company.

River Bend Gas and Water Company was incorporated on March 29, 1915, with authority to conduct a public utility gas business. This company contemplates installing and operating a gas distributing system in that portion of Fresno County in and around Dinuba, Parlier, Reedley and Kingsburg. That company accordingly makes application to this Commission for a certificate declaring that public convenience and necessity require the exercise of the franchise rights assigned to it by Parlier Winery. There is now no gas utility business in this territory other than a small system at Dinuba, which system River Bend Gas and Water Company contemplates purchasing. Evidence was introduced at the hearing showing clearly that the inhabitants of the territory to be served by the system of River Bend Gas and Water Company are anxious to have such a system installed, and I feel satisfied that public convenience and necessity require the exercise by River Bend Gas and Water Company of the franchise rights as requested in the application in this proceeding, and I submit herewith the following form of order:

ORDER.

This proceeding having come on regularly for hearing, and the Commission being duly advised in the premises,

It is hereby ordered that Parlier Winery be and it is hereby authorized to assign to River Bend Gas and Water Company that certain franchise granted to Parlier Winery by the city of Reedley, in Ordinance No. 37, approved March 3, 1915, a copy of which is filed in this proceeding as "Exhibit C," and that certain franchise granted to Parlier Winery by the county of Fresno in an ordinance adopted February 11, 1915, a copy of which is filed in this proceeding as "Exhibit D."

And it is hereby declared that public convenience and necessity require the exercise by River Bend Gas and Water Company of the rights and privileges contained in the franchises above mentioned.

It is further ordered that in the event the city of Kingsburg grants to Parlier Winery a franchise to operate a gas distributing system in that municipality, in accordance with the application of Parlier Winery

made to said municipality on March 12, 1915, Parlier Winery be, and it is hereby, authorized to assign said franchise to River Bend Gas and Water Company, and this Commission will hereafter, upon application of River Bend Gas and Water Company, declare that public convenience and necessity require the exercise by River Bend Gas and Water Company, under such rules and regulations as the Commission may prescribe, of the rights and privileges contained in said franchise applied for from the city of Kingsburg by Parlier Winery, but not yet obtained.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of May, 1915.

DECISION No. 2417.

IN THE MATTER OF THE APPLICATION OF HANFORD WATER COMPANY FOR PERMISSION TO RENEW CERTAIN PROMISSORY NOTES.

Application No. 1659.

Decided May 24, 1915.

Applicant authorized to renew two promissory notes aggregating the principal sum of \$8,100.00, with interest at 8 per cent and for a period not to exceed one year.

F. N. Isaac, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application of Hanford Water Company, operating in the city of Hanford, Kings County, for authority to renew, for twelve months, two promissory notes as follows:

In favor of First National Bank of Hanford; date of issue, September 26, 1910; date of maturity, March 26, 1911; rate, 8 per cent; amount, \$5,850.00.

In favor of First National Bank of Hanford; date of issue, September 10, 1913; date of maturity, December 10, 1913; rate, 8 per cent; amount, \$2,250.00.

The note dated September 26, 1910, was originally in the sum of \$8,500.00 and was given by the applicant for the purpose of purchasing a tract of land in the northern part of the city of Hanford upon which to drill a water well for the purpose of increasing its water supply. The sum of \$2,650.00 has been paid upon this note, making the principal sum at the present time \$5,850.00.

The note dated September 10, 1913, in the sum of \$2,250.00 was given for the purpose of making improvements and extensions to the company's plant and system, including the laying of new mains and installation of a new pumping plant at the central station.

After a consideration of the evidence, I am of the opinion that the company's application is proper and should be granted, and I accordingly submit the following form of order:

ORDER.

Hanford Water Company having applied to this Commission for authority to renew certain promissory notes as hereinbefore set forth, and a hearing having been held, and it appearing that the purposes for which the applicant proposes to issue said notes are not properly chargeable to operating expenses or to income,

It is hereby ordered that Hanford Water Company be, and it is hereby, authorized to renew, for a period not exceeding two years, the following promissory notes:

In favor of First National Bank of Hanford; date of issue, September 26, 1910; date of maturity, March 26, 1911; rate, 8 per cent; amount, \$5,850.00.

In favor of First National Bank of Hanford; date of issue, September 10, 1913; date of maturity, December 10, 1913; rate, 8 per cent; amount, \$2,250.00.

The authority herein granted to issue said promissory notes is granted upon the following conditions and not otherwise: .

1. Within thirty (30) days after any of the notes herein authorized shall have been issued, applicant shall make report of such issue to this Commission, stating the notes issued and the notes canceled or refunded.

2. The authority herein granted to issue said promissory notes shall only apply to notes issued by said company on or before the first day of November, 1915.

3. The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed by the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of May, 1915.

DECISION No. 2418.

IN THE MATTER OF THE RAILROADS CHARGING AND COLLECTING ADDITIONAL "TRAIN FARES" FROM PASSENGERS BOARDING THE TRAINS AT AGENCY STATIONS WITHOUT TICKETS WHEN OPPORTUNITY TO PURCHASE SAME HAS BEEN GIVEN.

Case No. 728.

Decided May 24, 1915.

The Commission being in receipt of numerous informal complaints protesting against the collection of an excess fare by carriers from passengers boarding trains at agency stations without tickets, initiates an investigation into the reasonableness of such practice, and after a thorough investigation which includes the legal right of carriers to make such a charge, what is a reasonable amount, if any, to make, and should it be retained by the carrier or refunded.

Held, That carriers have a legal right to collect an excess charge provided it is published in their tariffs on file with this Commission, such tariffs being subject to the Commission's jurisdiction. That the manifold duties required of conductors in the operation of their trains does not permit of their spending any more than the shortest possible time in the collection of fares without more or less seriously jeopardizing the safety of the passengers. That the collection of cash fares demands considerable more additional time of the conductor than the collection of tickets and to minimize such practice as much as possible an excess fare is just and reasonable. That to give refund checks for the excess amount collected would only tend to considerably increase this practice.

Held, Carriers authorized to collect an excess fare of 10 cents on amounts up to \$1.45 and approximately 10 per cent on amounts over that sum up to \$5.00, provided that no excess charge will be made if passengers were, for any reason, unable to purchase tickets and also no excess fares shall be collected on electric or interurban lines.

Geo. D. Squires, for Southern Pacific Company.

E. W. Camp, for The Atchison, Topeka and Santa Fe Railway Company.

A. S. Halsted, for San Pedro, Los Angeles and Salt Lake Railroad Company.

Allan P. Matthew, for Western Pacific Railway Company.

D. M. Swobe and Clarence M. Oddie, for Western Association of Short Line Railroads.

J. J. Geary, for Northwestern Pacific Railroad Company.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This case was brought upon the Commission's own motion for the purpose of investigating the practice of the railroads in this State, hereinafter referred to as the carriers, with reference to the charging and collecting of "train fares," i. e., fares in excess of ticket rates, in cases where passengers neglect to avail themselves of opportunities provided by such carriers to purchase tickets. The necessity for such investigation arose from the various complaints received by the Commission

from persons from whom such excess rates or "train fares" have been collected.

The matter is one that at various times has engaged the attention of the legislatures and commissions of many of the states of the Union, and has also been considered and passed upon by the Interstate Commerce Commission. It has also been the subject of a hearing by this Commission upon complaint against the Northwestern Pacific Railroad Company (*see* opinions and orders of the Railroad Commission of the State of California, Volume 2, page 910, Case 333), decided May 14, 1913. I shall hereafter refer to the cases in which the Interstate Commerce Commission and this Commission have considered this matter.

A proper consideration of the subject matter of this proceeding will, in my judgment, require the analysis of and answer to four questions, as follows:

First—Have common carriers the legal right to charge passengers, who board trains without providing themselves with tickets where they have had opportunity to purchase tickets, excess fare, on something more than ticket rates?

Second—If it is found that they have such legal right, is it to the benefit of the carriers alone or to both the carriers and the public to exercise it?

Third—When "train fares" are so collected should the excess be regarded as a penalty to be paid by the passengers for not purchasing tickets and therefore retained by the carriers, or should a refund check be given the passengers paying the excess, by means of which they may recover the excess from the agent of the carriers upon presentation of the refund check?

Fourth—As a penalty or refund, what is a reasonable excess for carriers to charge?

I shall consider these questions in the order in which they are mentioned:

First: As to the legal right of carriers to charge passengers who board trains without providing themselves with tickets where they have had the opportunity to do so excess fare, or something more than ticket rates, it may be that at common law carriers did not have this right. This question need not be considered in this case for the reason that there is no doubt as to the authority of legislatures directly, or through regulatory bodies, to confer such right. Most of the states have by statute or by orders of commissions conferred upon carriers the right to charge and collect such train rates or excess fares and it has been held repeatedly by the courts that where a common carrier provides an opportunity for passengers to purchase tickets it is not illegal for it to enforce a penalty when passengers disregard such opportunity. Many cases in which the courts have ruled as to the reasonableness of

such a provision in its various phases are found in *Hutchinson's Law of Carriers*, 3d Ed., Vol. 2, Sec. 1023, and decisions therein cited. In reviewing these cases Hutchinson says:

"It is well settled that a regulation or by-law of a carrier is not unreasonable which provides that when such tickets are not procured before the commencement of a journey, and the carrier is therefore put to the inconvenience of collecting from the passenger his fare during its progress, the price of the carriage may be more than would have been charged for the ticket, and that on the refusal of the passenger to pay the higher fare, not extortionate or unreasonable in itself, he may be ejected."

The subject of train rates has been before the Interstate Commerce Commission, as before stated, in the case of *Sidman vs. Richmond and Danville Railroad Company*, 3 I. C. C. 512. In that decision the Commission held that a regulation imposing a penalty for the payment of fares on trains was not unjust discrimination under the law. Five adjudicated cases and two text writers were quoted to sustain the doctrine of the Commission's decision. These citations are found in 3 I. C. C. 518. The most recent case in which it is held that the collection of train rates is not illegal is *Kintrel vs. L. & N. R. Co.*, decided by the Supreme Court of Alabama on November 7, 1914, and reported in 67 Southern, 586. This was an action for damages for ejection of plaintiff from a train of defendant. It appeared that plaintiff had refused to pay an excess fare which the Railroad Commission of Alabama had authorized the carriers of the state to collect. The Supreme Court upholds this order of the Railroad Commission authorizing the collection of train rates and upheld the judgment of the lower court dismissing the complaint.

With reference to the right of the carriers in this State to charge excess fare where tickets are not purchased, when opportunity has been offered, and of the Railroad Commission of the State of California to legally promulgate such a ruling, a review of the laws enacted from time to time relating to this subject here follows:

Section 2189 of the Civil Code was enacted March 21, 1872, and reads as follows:

"A passenger upon a railroad train who has not paid his fare before entering the train, if he has been afforded an opportunity to do so, must, upon demand, pay 10 per cent in addition to the regular rate."

In the act of April 1, 1878, entitled "An act to create the office of the commissioner of transportation," the legislature again expressed itself fully on this subject, providing in chapter 1, section 15:

"If any passenger shall neglect to procure a ticket from the ticket office of the company at the station where he shall take passage, having an opportunity so to do, it shall be lawful for the company

to demand and collect from him, in addition to the fare, as fixed by the regular tariff of such company, the sum of ten cents (in all cases where such fare is less than \$1.00, and at the rate of 10 per cent on all fares in excess of \$1.00).”

Chapter 2, section 10, of this act also provides as follows:

“All other acts and parts of acts in conflict with the provisions of this act are hereby repealed so far as they conflict herewith.”

It is my opinion that the courts will regard section 2189, Civil Code, as being in conflict with chapter 1, section 15, of the act of April 1, 1878, and that, therefore, section 2189, Civil Code, has been repealed by virtue of the repealing clause in chapter 2, section 10 of the act of April 1, 1878.

Even assuming, however, that section 2189, Civil Code, is not to be viewed as being in conflict with the act of April 1, 1878, chapter 1, section 15 of this act being a later and complete expression of the legislature on this subject, has superseded and repealed section 2189, Civil Code.

In enacting chapter 1, section 15, of the act of April 1, 1878, the legislature undertook to again express itself fully upon the subject matter of section 2189, Civil Code. The later statute is a complete revision of the subject-matter of the first statute, and must, therefore, have been intended by the legislature to be the sole expression upon this question. Accordingly, chapter 1, section 15, of the act of 1878 must have superseded and must be substituted for section 2189, Civil Code. This view accords with a principle frequently announced by the Supreme Court of this State. *City and County of Sacramento vs. Bird*, 15 Cal. 294, 296:

“It is true the law does not favor the repeal of statutes by implication, but it is not true that a statute, without negative words, will in no case repeal the provisions of a former one, unless the two acts are directly repugnant and inconsistent. Every statute must be considered according to what appears to have been the intention of the legislature, and even though two statutes relating to the same subject be not in terms repugnant or inconsistent, if the latter statute was clearly intended to prescribe the only rule which should govern in the case providing for, it will be considered as repealing the original act.”

Mack vs. Jastro, 126 Cal., 130, 132:

“While it is true that repeals by implication are not favored, whenever it becomes apparent that a later statute is revisory of the entire matter of an earlier statute, and is designed as a substitute for it, the latter statute will prevail, and the earlier statute will be held to have been superseded, even though there be found inconsistencies or repugnances between the two.”

To the same effect see:

State of California vs. Conkling, 19 Cal. 501, 512.

Christy vs. Board of Supervisors of County of Sacramento, 39 Cal. 1, 10.

In re Mitchell, 120 Cal. 384, 387.

I am of the opinion, therefore, that the act of April 1, 1878, has repealed section 2189, Civil Code.

Chapter 1, section 15, of the act of April 1, 1878, remained in effect until the passage of the Wright Act, approved March 20, 1909, section 43 of which expressly repealed the act of April 1, 1878. The repeal of the act of April 1, 1878, which had repealed section 2189, Civil Code, did not, however, have the effect of reviving section 2189, Civil Code, for it has been definitely held by the Supreme Court of this State in *People vs. Hunt*, 41 Cal. 435, 439, that,

“The repeal of an act repealing a former act does not revive the former act nor give it any force and effect. This result can be accomplished only by the re-enactment of the former act.”

It is my opinion, therefore, that at the present time, inasmuch as both section 2189, Civil Code, and chapter 1, section 15, of the act of April 1, 1878, have both been repealed there is now no statute expressly authorizing carriers to collect additional train fares from parties who have not purchased tickets before boarding the train after having an opportunity to do so. This being true how are carriers given the right to impose this excess charge? The answer is found in the Public Utilities Act.

If the carriers have filed with the Commission, in accordance with section 14 of the Public Utilities Act, a schedule of fares and regulations, which makes provision for the collection of excess train fares upon failure to purchase a ticket before boarding the train, where facilities for such purchase were available, of course they have the right to make this collection. The carriers of this State have complied with the requirements of section 14 of the Public Utilities Act in this regard and the authority to collect excess train fares results from this fact that the carriers have filed with the Commission a schedule including this fare. This schedule, of course, can at any time be altered by the Commission so that there is no statute now in force which will in any way restrict the Commission in prescribing such regulations as it deems expedient upon the question of the collection of excess train fares.

Second: Does it benefit carriers or the public, or both, to exercise the right of charging and collecting such excess fares?

The carriers undertake to perform a certain service for the public. The obligation is laid upon them to perform that service at reasonable

rates, and regulatory bodies, state and federal, are given authority to see that such obligation is properly discharged; but, there is a higher duty than that, namely, to conserve the safety of the public while serving it. The primary object of charging train rates in excess of ticket rates is to induce passengers to purchase tickets, not, as is thought by some, to insure the safety of the revenue to the carriers but rather to enable conductors to quickly attend to the collection of tickets and have time to devote to the proper and safe handling of their trains. I have ridden extensively on railroad trains for many years but I must confess that until the hearing of this case I had but a faint idea of the manifold duties, the discharge of which is incumbent upon passenger conductors, and I am of the opinion that the public generally is no better informed than I was.

I quote from the testimony of a conductor of thirty-two years' railroad experience, twenty-eight years as a conductor:

MR. SQUIRES: Mr. Engwicht, tell us what your duties are in running a passenger train, what you have to do in addition to collecting fares.

A. Well, I leave here of an evening and my duty is to see that my brakemen—I go to my brakemen and see that they are fit to go out, that they are there on time, thirty minutes before time; go to the rear end and see that my markers are properly displayed, go to the front end and see that the engine has markers properly displayed, receive my orders, notify the Pullman man what stops I have to make and to take on passengers, and all those things. I leave there, and as I say, when we start to take up our transportation we come up against those snags in that way where people want this done and that done. I have maybe two or three trains to meet in the first fifty miles. Also, the engineer will slow down, the signal will be against him, and I am supposed to find out and to know why that signal is down. I have to make a detailed account at the end of my trip for every thirty seconds delay, and why, and segregate it, so that my office and my work and everything is right in my hands there, and as I told you, when I am transacting business with you you are apt to ask me some question or other. By the way, I believe your Honor asked me one morning something in regard to the dining car proposition, if you remember?

COMMISSIONER LOVELAND: More than likely, if I was hungry.

A. Yes, you would, and while I am talking to you I have a dozen other things. I have trains to meet very often and maybe at that minute they are whistling for the station and I will run out and run out quick, too, and lots of passengers think we are not treating them with courtesy we should when we get up and leave them in a minute like that.

MR. SQUIRES: When your train stops you have to get off, do you not?

A. Have to get off and see that my passengers get off, start the train and get back on again, and into the same routine again. We also have government tests made by us. The train is stopped

by some government man to see whether we live up to the government rule of the block system proposition, and those things, as I say—you are held responsible for the whole business from the engineer to the markers.

Q. And of course, that takes up a large portion of your time?

A. Takes up all of your time—really takes up all of your time.

Q. Out of all the fares that you would collect on an ordinary train running between San Francisco and San Luis Obispo, if 25 per cent of them were cash fares, would it so interfere with your duties that you would be obliged to have an assistant?

A. Yes, sir, I could not do it; it would be utterly impossible.

Q. That is, it is only from the fact that a cash fare is occasionally presented that you are able to get away with it at all?

A. To get away with it at all, yes, sir.

Other testimony, given by conductors of long experience, was equally interesting and pointed, going to establish the fact that as little time as possible should be required of conductors in collecting fares, and I shall refer to such testimony later in this opinion, when commenting upon the difference in the character of the service required in collecting tickets as against collecting fares. I believe the testimony in this case amply justifies my finding that excess fares, or train rates, should be collected from passengers boarding trains without tickets, without reasonable excuses for not having purchased same, provided that carriers have the right, under the law, to collect such excess.

This brings me to the consideration of the third question, namely, when "train fares" in excess of ticket rates are collected from passengers not provided with tickets, who have had reasonable opportunity to purchase same, should such excess be considered a penalty and retained by the carrier, or refunded by means of a refund check to the passengers? In answer to this question I find as a fact, that the excess should be considered a penalty and should be retained by the carriers, and my reasons for this finding are as follows:

Keeping in mind the manifold duties devolving upon conductors and the real necessity, in the interest of public safety, for putting just as little extra work upon them as possible, I will now consider whether more passengers will board trains without tickets if assured of a refund than will if the excess is retained by carriers as a penalty. It seems to me reasonable to assume, on general principles, that if passengers know that they are to get any excess they may have to pay for not having tickets, refunded, they will not be as particular about buying tickets; and that was testified to as a fact by several witnesses in this case.

Case 333, *supra*, was decided May 14, 1913. In the decision in that case the Northwestern Pacific Railroad Company was ordered to publish and put into effect the refund system on portions of its lines, other than within commutation limits on trains operated by electric

motive power. The general passenger and ticket agent of that road testified in the present hearing that as a result of establishing the refund system the number of passengers boarding trains at agency stations without tickets increased 21 per cent after allowing for the average increase due to the increase in travel generally. Other witnesses testified that their experience convinced them that passengers were much more liable to board trains without tickets under the refund system as compared with the penalty system.

Another matter of importance is the time consumed and the expense to carriers incidental to the refund system. It is probably true that the expense connected with refunding excess fare, comprehending as it does the time of the conductor in making the check, of the agent in cashing it and making returns therefor, postage, etc., would mean an expense to the carriers of at least half, and possibly more than half, of the amount collected as excess and refunded.

There is one thing more which was developed by the testimony in this case which I regard as worthy of mention in the consideration of the matter generally. The conductors, who testified in the hearing of this case, all laid particular stress upon the danger which inured to conductors by having in their possession the rather large sums of money necessary to make change where many passengers paid "train fares." He explained that if a train stopped, for any cause, it was the conductors' duty to immediately leave the train and ascertain the cause, and that to do this it was frequently necessary to walk the length of the train and that when such supervision was necessary in the night time there was grave danger of their being slugged and robbed, particularly if it were known that they carried any considerable amount of money on their persons.

In view of all these circumstances it seems evident to me that carriers are justified in taking reasonable steps to induce passengers to purchase tickets, not alone in their own interests but in the interest and for the safety of the public, particularly in view of the fact that the testimony in this case shows the reasonable manner in which the carriers handle the subject.

Testimony was offered by witnesses connected with the management of different roads to the effect that conductors were always instructed to accept any reasonable excuses from passengers who had boarded the train without tickets, such excuses being that the depot was closed, or the agent away from the ticket window checking baggage, or the fact that so many people were waiting to buy tickets that the agent could not wait upon them all, etc.; in fact, any reasonable excuse, and to only collect train rates when it was clearly apparent that the passengers could have purchased tickets but did not do so.

In preparing for the hearing of the case at bar the Commission made an extended investigation into the question of "train fares," which investigation disclosed the fact that in several of the states in which the refund system was heretofore in effect that system has been discontinued and the penalty system now is in operation, and that there are now sixteen states in which the excess is refunded and twenty-six states in which it is retained by the carriers.

Finally, I quote from a decision rendered by the railroad commission of the State of Colorado, December 11, 1914, entitled "In the matter of an investigation and hearing, on motion of the commission, of the rules and practice of charging excess passenger fares and the subject of refunding the same on the part of the following common carriers," as follows:

"The hearing before the commission was quite general and exhaustive, and, from the evidence produced, the commission is of the opinion that one system should be adopted throughout the State of Colorado. The commission also finds that it would be to the best interests of the different common carriers and the general public that a small uniform excess cash fare be charged. This would induce the general traveling public to purchase tickets on boarding trains, and, in this way, better enable the common carriers to check and ascertain the exact number of passengers carried and the exact earnings of the companies in carrying passengers. The commission believes that this practice will have a tendency to allow the companies to collect fares from all persons whom they carry and will give them a better check on the same. The commission is also of the opinion that, in order to accomplish this object, it is better that no cash fares be refunded * * *."

Having found that an excess or train rate should be charged, and that it should be in the nature of a penalty, and retained by the carriers, I will now consider the fourth question involved in this matter, namely, what amount should be charged? This is a matter of opinion in support of which I can not give the weight of much testimony but from the investigation, made by the Commission prior to this hearing in California, and of the practice in other states, I find as a fact that the following train rates which are now and have for years been in effect in this State, are reasonable:

Where the one-way ticket fare is \$0.10 to \$1.45, an excess charge of 10 cents should be added.

Where the one-way ticket fare is \$1.50 to \$1.95, an excess charge of 15 cents should be added.

Where the one-way ticket fare is \$2.00 to \$2.45, an excess charge of 20 cents should be added.

Where the one-way ticket fare is \$2.50 to \$2.95, an excess charge of 25 cents should be added.

Where the one-way ticket fare is \$3.00 to \$3.45, an excess charge of 30 cents should be added.

Where the one-way ticket fare is \$3.50 to \$3.95, an excess charge of 35 cents should be added.

Where the one-way ticket fare is \$4.00 to \$4.45, an excess charge of 40 cents should be added.

Where the one-way ticket fare is \$4.50 to \$4.95, an excess charge of 45 cents should be added.

Where the one-way ticket fare is \$5.00 and over, an excess charge of 50 cents should be added.

Provided, however, that where passengers board trains at non-agency stations, or where for any reason for which they are not responsible they are unable to purchase tickets, no excess fare will be charged; and, provided further, that all passengers may have the privilege of purchasing tickets at the first station where tickets are sold at which the train stops, in which case the excess scale herein provided shall not apply. If, however, the ordinary time during which the train stops is not sufficient for the passenger to alight from the train, procure his ticket and board the train again, it is not incumbent upon the carriers to have the train wait for him to purchase his ticket and return.

I further find as a fact that where common carriers accord half fare rates to children between the ages of five and twelve years, one-half of the excess fare provided above may be added in cases where such children are not provided with tickets where facility to purchase same was available.

It is my opinion, therefore, as to the whole case, first, that under the law of the State of California this Commission has the power to authorize carriers to charge train rates, or excess fare over ticket rates, to passengers not holding tickets having had the opportunity to purchase tickets. Second, I find as a fact that it is to the interest of the public as well as to the interest of the carriers that such train rates, or excess fare, should be charged and collected, and that the excess so collected as train rates should be considered a penalty and retained by the carriers. I further find as a fact that the scale of train rates, or excess charges, mentioned above, is just and reasonable.

I submit herewith the following form of order:

ORDER.

The Railroad Commission of the State of California having undertaken, on its own motion, an investigation into the matter of the railroads of this State charging passengers who board trains without tickets, where they have had opportunities for purchasing tickets, something more than the ticket rates, and a regular hearing having been held in San Francisco on May 5, 1915, and the Commission, having given exhaustive consideration to the whole matter, as set forth in the opinion preceding this order;

The Commission hereby finds as a fact that it is to the interest of the public, as well as to the interest of the carriers, that such train

rates, or excess fare, be charged and collected, and that the excess so collected as train rates should be considered a penalty and retained by the carriers; and

The Commission hereby further finds as a fact that the following scale of train rates, or excess over the regular ticket fare, is just and reasonable:

Where the one-way ticket fare is \$0.10 to \$1.45, an excess charge of 10 cents should be added.

Where the one-way ticket fare is \$1.50 to \$1.95, an excess charge of 15 cents should be added.

Where the one-way ticket fare is \$2.00 to \$2.45, an excess charge of 20 cents should be added.

Where the one-way ticket fare is \$2.50 to \$2.95, an excess charge of 25 cents should be added.

Where the one-way ticket fare is \$3.00 to \$3.45, an excess charge of 30 cents should be added.

Where the one-way ticket fare is \$3.50 to \$3.95, an excess charge of 35 cents should be added.

Where the one-way ticket fare is \$4.00 to \$4.45, an excess charge of 40 cents should be added.

Where the one-way ticket fare is \$4.50 to \$4.95, an excess charge of 45 cents should be added.

Where the one-way ticket fare is \$5.00 and over, an excess charge of 50 cents should be added.

It is hereby ordered that the railroad companies, common carriers of California, as defined later in this order, on and after the effective date of this order, are authorized and directed to collect the following train rates, or excess fare, from passengers boarding trains without tickets where opportunities for the purchase of tickets have been afforded:

Where the one-way ticket fare is \$0.10 to \$1.45, an excess charge of 10 cents should be added.

Where the one-way ticket fare is \$1.50 to \$1.95, an excess charge of 15 cents should be added.

Where the one-way ticket fare is \$2.00 to \$2.45, an excess charge of 20 cents should be added.

Where the one-way ticket fare is \$2.50 to \$2.95, an excess charge of 25 cents should be added.

Where the one-way ticket fare is \$3.00 to \$3.45, an excess charge of 30 cents should be added.

Where the one-way ticket fare is \$3.50 to \$3.95, an excess charge of 35 cents should be added.

Where the one-way ticket fare is \$4.00 to \$4.45, an excess charge of 40 cents should be added.

Where the one-way ticket fare is \$4.50 to \$4.95, an excess charge of 45 cents should be added.

Where the one-way ticket fare is \$5.00 and over, an excess charge of 50 cents should be added.

And that such train rates, or excess over the regular ticket fare, shall be retained by the carriers as a penalty.

Provided, however, that where passengers board trains at non-agency stations, or where for any reason they are unable to purchase tickets, no excess fare will be charged; and, provided further, that all passengers may have the privilege of purchasing tickets at the first station where tickets are sold at which the train stops, in which case the excess scale herein provided shall not apply. If, however, the ordinary time during which the train stops is not sufficient for the passenger to alight from the train, procure his ticket and board the train again, it is not incumbent upon the carriers to have the train wait for him to purchase his ticket and return.

It is further ordered that where children between the ages of five and twelve years are permitted to travel for half of the ticket fare shown in the tariff for adults, one-half of the excess fare provided above may be added.

It is further ordered that this order and the rules and regulations herein provided for, shall apply to common carriers operating steam railways within the State of California, and shall not apply to any interurban, or suburban electric, or street railway within the jurisdiction of this Commission, nor to such railways when operated by steam railways.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of May, 1915.

DECISION No. 2419.

PETER BACKLUND

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 802.

Decided May 26, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The complainant in the case entitled as above having made application to the Commission that this proceeding be dismissed,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 26th day of May, 1915.

DECISION No. 2420.

IN THE MATTER OF THE APPLICATION OF ANDREW SORENSEN AND EAST OAKLAND WATER AND ELECTRIC COMPANY FOR ORDER AUTHORIZING SAID ANDREW SORENSEN TO SELL AND SAID EAST OAKLAND WATER AND ELECTRIC COMPANY TO BUY CERTAIN PUBLIC UTILITY PROPERTY; AND FOR AN ORDER AUTHORIZING SAID EAST OAKLAND WATER AND ELECTRIC COMPANY TO ISSUE TWENTY THOUSAND DOLLARS PAR VALUE OF ITS STOCK.

Application No. 1592.

Decided May 26, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicants having on May 22, 1915, made written request to this Commission that this application be dismissed,

It is hereby ordered that this application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 26th day of May, 1915.

DECISION No. 2421.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF CERTAIN NOTES.

Application No. 1638.

Decided May 26, 1915.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

This Commission on May 7, 1915, having authorized the applicant herein to renew certain promissory notes, including a note in favor of John A. Roebling's Sons Company, dated February 24, 1915, in the sum of \$10,477.12, bearing interest at the rate of 6 per cent per annum.

And applicant now having requested authority to renew said note at 7 per cent per annum instead of 6 per cent as provided in the original order, and it appearing that applicant's request is reasonable and should be granted,

It is hereby ordered that the order heretofore made in the above entitled matter (Decision No. 2364) be and it is hereby amended to allow Midland Counties Public Service Corporation to renew a promissory note in favor of John A. Roebling's Sons Company, dated February 24, 1915, in the sum of \$10,477.12, at a rate of interest not to exceed 7 per cent per annum;

It is further ordered that the order herein made shall be subject to all of the conditions heretofore imposed in Decision No. 2364 not in conflict with the order herein.

The foregoing first supplemental order is hereby approved and ordered filed as the first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of May, 1915.

DECISION No. 2422.

IN THE MATTER OF THE APPLICATION OF THE VISALIA ELECTRIC RAILROAD COMPANY FOR AUTHORITY TO ABANDON ITS CROSSING AT THE POINT WHERE ITS SPUR TRACK LEADING TO REDBANKS PACKING HOUSE CROSSES THE PUBLIC HIGHWAY, AND TO TAKE UP AND REMOVE SAID SPUR TRACK.

Application No. 1626.

Decided May 26, 1915.

Applicant applies for permission to abandon and remove a certain spur track serving the Redbanks packing house to which application the packing house makes strenuous objection, claiming that though during the last year the majority of its business has been given to Minkler Southern Railway, it is its intention during the present season to more evenly distribute its shipments between the latter named road and applicant.

Held, That applicant can not be expected to maintain a spur from which it receives no revenue though such track should not be removed at the beginning of the shipping season. Applicant directed to maintain this spur for six months, after which period if it still desires to remove this spur, supplemental application may be made and the proper action will be taken.

Power & McFadzean, for Applicant.

H. B. McClure, for Redbanks Orchard Company.

REPORT OF THE COMMISSION.

GORDON, Commissioner.

The spur track referred to in this application extends from its connection with the main line of the Visalia Electric Railroad Company, near Redbanks, 3,000 feet north to a connection with a track of the Redbanks Orchard Company, which is about 473 feet long; 200 feet of this distance being south of the packing house, 173 feet being in the packing house and 100 feet being north of the packing house and connecting with a spur track of the Minkler Southern Railway.

The spur track of the Visalia Electric and that part of the Redbanks Orchard Company's track which extends through the packing house were constructed in July, 1913. The Redbanks Orchard Company donated a 50-foot strip of right of way and did the grading on the track belonging to the Visalia Electric Railroad Company while the railroad

company furnished the track and overhead material, together with the labor thereon. The cost of the grading to the Redbanks Orchard Company was about \$200.00; the cost of track, overhead and labor to the railroad company was about \$4,000.00. The Visalia Electric Railroad Company have a commercial siding on their main line at a point not far from where this spur track leaves it, and previous to the completion of the spur track the Redbanks Orchard Company used the siding to receive and deliver their shipments.

The spur track was built about the same time as the main line and shortly after the construction of this part of the Visalia Electric's line was completed the Minkler Southern built through this territory. In September, 1913, it obtained a connection with the Redbanks Orchard Company via the track of that company in the manner mentioned above.

It is the contention of the Visalia Electric Company that since the coming of the Minkler Southern it has received so little business from the Redbanks Orchard Company that it is not justified in keeping an investment of \$4,000.00 in this track and standing also the cost of maintenance, estimated to be about \$200.00 per year, not including interest on the investment. The company states further that it can use this material to good advantage in making an extension elsewhere. In support of its contention that business does not warrant the continuance of this spur track there was filed a statement showing the business received by and forwarded by the Redbanks Orchard Company from April, 1913, to January, 1915; the business done to some time in July having been transacted on the commercial siding on the main line previously mentioned. This statement, filed as Exhibit "A," can be condensed and arranged as follows:

| Month | Freight received | | Freight forwarded | |
|------------------------------|------------------|--------------------|-------------------|---------------|
| | Carloads | L. C. L. pounds | Carloads | |
| April, 1913 | 3 | 6,765 | ----- | |
| May, 1913 | 4 | 535 | ----- | |
| June, 1913 | 4 | 12,059 | 24 | (Green fruit) |
| July, 1913 | 2 | 4,045 | 24 | (Green fruit) |
| August, 1913 | 5 | 725 | 26 | (Green fruit) |
| Total five months | 18 | 24,129 | 74 | |
| September, 1913 | 3 | 2,324 | 1 | (Empty boxes) |
| October, 1913 | 2 | 9,465 | ----- | |
| November, 1913 | 1 | 8,460 | ----- | |
| December, 1913 | ----- | 9,900 | ----- | |
| January, 1914 | 1 | 2,170 | ----- | |
| May, 1914 | ----- | 9,900 | ----- | |
| October, 1914 | ----- | 2,314 | ----- | |
| November, 1914 | ----- | 10,000 | 1 | (Grapes) |
| December, 1914 | 1 | ----- | 1 | (Oranges) |
| January, 1915 | ----- | None | ----- | |
| Total seventeen months | 8 | 54,533 | 3 | |

These figures show a large falling off of freight both received and forwarded after the completion of the Minkler Southern connection in September, 1913. It was testified that the orchards of the orchard company are just coming into bearing and during the shipping season of 1914 the Minkler Southern had received from the packing house of that company from 170 to 180 cars of freight.

The orchard company opposed the granting of this application. Mr. Phil N. Baier, its general manager, and the owner of one-half of its stock, testified that during 1913, when the Visalia Electric was building its tracks in this vicinity, he had devoted much of his time and influence to securing donations of rights of way for it and that the construction and maintenance of this spur track to serve the orchard company was in the nature of compensation for his services and that he had had an understanding to that effect with the previous management of the railroad company. Mr. Baier stated that the spur track was an asset to his company and that there were likely to be times when he would be forced to ship over the Visalia Electric and Southern Pacific when the Minkler Southern, and its controlling company, the Santa Fe, were unable to make eastern deliveries for him.

Mr. Baier is in full control of the routing of freight from the Redbanks Orchard Company and he personally owns an orchard at Lindsay. He contends that in dividing freight between the railroads he had considered the Santa Fe and Minkler Southern as one system and the Southern Pacific and the Visalia Electric as another and, although there was no competition at Lindsay, and he was compelled to make his shipments from that point over the Southern Pacific, he had considered that the Southern Pacific had secured its share of the business he controls at Lindsay and had given the Redbanks Orchard freight to the Minkler Southern, as their share.

Mr. Baier stated that he could secure quicker deliveries to the east via the Santa Fe than by the Southern Pacific, and that he preferred to use the latter road wherever possible, but that to points in the northwest and southwest he could and would use the Visalia Electric and the Southern Pacific. He stated also that the Minkler Southern was now operating to Lindsay and that his shipments this year would be divided between the roads on a different basis than that of the year before and the Visalia Electric would get a good share of the total business of the Redbanks Orchard Company.

Regarding the first of Mr. Baier's contentions: there is no written contract to show that this spur track was built as compensation for his services and before it could be so considered it would be necessary to know first, that there was such an agreement; second, that this agreement had the full force of a contract; and, third, that the terms of that contract would be violated if this application were granted. This seems to be a

matter for the courts and not this Commission to determine, but the Commission can safely assume that the strip of right of way on which the spur is located was given by the orchard company to the Visalia Electric Company in consideration of this spur track being constructed and maintained, and it seems no more than fair that if this track should be removed the land should be deeded back to the orchard company. The applicant has expressed its intention to do this.

It is natural, of course, that the Redbanks Orchard Company should consider this spur track as an asset, but the Visalia Electric can hardly be expected to keep an investment of \$4,000.00 in this track and to spend about \$200.00 per year upon maintenance unless it can derive therefrom revenue greater than that which would be received from the shipment of two cars of fruit annually. It is not proposed to remove the siding on the main line, and this siding, about 3,000 feet away from the packing house, will always be available to the Redbanks Orchard Company, although Mr. Baier testified that it would cost considerably more to load fruit there than it now does to load it at the packing house.

Mr. Baier did not state how much business he proposed to give the Visalia Electric during the shipping season now commencing, and Mr. Webster, general manager of the Visalia Electric Company, did not state how much business he thought should be secured to justify him in maintaining this track.

There were other matters touched upon at the hearing which it is not necessary to dwell upon in this opinion. It will suffice to say that the railroad company feels that the spur track is desired for reasons other than the expectation to use it in shipping freight and the orchard company believes that this application was filed for reasons other than the desire to remove a spur track upon which no earnings have been made for several months. For these reasons I believe that neither party can look at this matter impartially. It is plain that the Visalia Electric can not be expected to maintain an investment of \$4,000.00 and to spend \$200.00 annually for maintenance, unless ample business is received in return for its expenditures, and it is equally plain that if the orchard company desires to have this spur track remain in service it must give the Visalia Electric business enough to make its desire a reasonable one. It is apparent that the business received by that company during the last year is not enough of an inducement to lead any railroad company to maintain a spur to secure it, and although it was testified that business over the track this year would be considerably larger, no estimates were made as to how much more it would amount to.

I do not believe the Commission should permit this track to be removed now, at the beginning of a shipping season, but the Commission's position—that the orchard company can retain it only by giving ample business to the Visalia Electric—should be made clear.

In view of these facts it can not be decided at this time whether this application should or should not eventually be granted, since some time must be given to determine whether or not the Redbanks Orchard Company desires this spur track enough to make an effort to retain it.

As far as the use of the material in this spur track for an extension elsewhere is concerned, I am satisfied that if the Visalia Electric desires to make such an extension and is satisfied that it will be remunerative when made, it will have no difficulty in finding means to obtain the necessary material.

I recommend the following form of order:

ORDER.

Visalia Electric Railroad Company, a corporation, having applied to the Commission for permission to abandon its spur track leading to the Redbanks Orchard Company's packing house and to take up and remove said track, and a public hearing having been held, at which all interested parties were represented, and the Commission being fully apprised in the premises,

It is hereby ordered that Visalia Electric Railroad Company shall six (6) months from the date of this order, if it still desires to have this spur track removed, file with the Commission a certified statement of the business done over it and the gross revenue derived therefrom; and the Commission, after receipt of this statement after such investigation as it may make, will issue such further order in this regard as to it may appear to be right and proper.

It is further ordered that if the Visalia Electric Railroad Company at the expiration of six (6) months from the date of this order does not desire to have this spur track removed, the application will be dismissed, but the company may at the expiration of any given period make a further application for permission to remove it. This application shall be accompanied by certified statements showing the business done over this spur track, together with the gross revenue derived therefrom, and the Commission deserves the right, after an investigation, to make such further orders relative to this spur track as may appear to be right and proper.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of May, 1915.

DECISION No. 2423.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, COAST LINES, FOR AUTHORITY TO CANCEL ITS TWO-TRIP FARES BETWEEN LOS ANGELES AND ARCADIA, SAN ANITA AND MONROVIA, AS SHOWN IN ITS LOCAL PASSENGER TARIFF C. R. C. No. 728.

Application No. 1501.

Decided May 26, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant having on May 20, 1915, made written request to the Commission that the above entitled matter be dismissed,

It is hereby ordered that the same be and it is hereby dismissed.

Dated at San Francisco, California, this 26th day of May, 1915.

DECISION No. 2424.

IN THE MATTER OF THE APPLICATION OF MONTEREY AND PACIFIC GROVE RAILWAY COMPANY FOR AUTHORITY TO EXERCISE FRANCHISE RIGHTS.

Application No. 1687.

Decided May 26, 1915.

REPORT OF THE COMMISSION.

Monterey and Pacific Grove Railway Company having applied to this Commission for a certificate declaring that public convenience and necessity require the exercise by applicant of the rights and privileges granted to it by the city of Monterey in Ordinance No. 36, C. S., adopted on December 10, 1912, by which ordinance applicant is granted a franchise to construct, maintain and operate an electric railroad in and upon certain streets, highways, lanes and avenues in the city of Monterey, a copy of this ordinance being attached to the application in this proceeding and marked "Exhibit B," and applicant having also applied for a certificate declaring that public convenience and necessity require the exercise by applicant of the rights and privileges granted to it by the city of Pacific Grove in Ordinance No. 146, adopted on December 16, 1912, by which ordinance applicant is granted a franchise to construct, maintain and operate an electric railroad in and upon certain streets, highways, lanes and avenues in the city of Pacific Grove, a copy of this ordinance being attached to the application in this proceeding and marked "Exhibit C," and the Commission being of the opinion that this is not a case in which a public hearing is necessary and that the application should be granted,

It is hereby declared that public convenience and necessity require the exercise by Monterey and Pacific Grove Railway Company of the rights and privileges granted to it by the city of Monterey in Ordinance No. 36, C. S., adopted on December 10, 1912, and the rights and privileges granted to it by the city of Pacific Grove in Ordinance No. 146, adopted on December 16, 1912.

Dated at San Francisco, California, this 26th day of May, 1915.

DECISION No. 2425.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, COAST LINES, SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, AND SOUTHERN PACIFIC COMPANY, FOR AUTHORITY TO MAKE CERTAIN CHANGES IN THE CONDITIONS SURROUNDING THE USE OF TICKETS SOLD AT THE PRESENT EIGHT-DAY ROUND-TRIP FARE BETWEEN CERTAIN POINTS ON THEIR RESPECTIVE LINES IN SOUTHERN CALIFORNIA.

Application No. 1500.

Decided May 26, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicants having on May 20, 1915, made written request to the Commission that the above entitled matter be dismissed,

It is hereby ordered that the same be and it is hereby dismissed.

Dated at San Francisco, California, this 26th day of May, 1915.

DECISION No. 2426.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, COAST LINES, SOUTHERN PACIFIC COMPANY AND SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, FOR AUTHORITY TO CANCEL THEIR SUNDAY ROUND-TRIP EXCURSION FARES BETWEEN CERTAIN POINTS IN SOUTHERN CALIFORNIA.

Application No. 1502.

Decided May 26, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant having on May 20, 1915, made written request to the Commission that the above entitled matter be dismissed,

It is hereby ordered that the same be and it is hereby dismissed.

Dated at San Francisco, California, this 26th day of May, 1915.

69-17493

Decision No. 2427, grade crossing; not printed, See end of volume.

DECISION No. 2428.

IN THE MATTER OF THE APPLICATION OF SOLEDAD LAND AND WATER COMPANY AND MISSION WATER COMPANY FOR AN ORDER AUTHORIZING THE SALE BY SAID SOLEDAD LAND AND WATER COMPANY AND THE PURCHASE BY SAID MISSION WATER COMPANY OF THE PLANT SYSTEM AND ALL OF THE PROPERTIES OF SAID SOLEDAD LAND AND WATER COMPANY.

Application No. 1630.

Decided May 26, 1915.

Soledad Land and Water Company, operating a water utility serving water for irrigation purposes near Soledad, Monterey County, authorized to transfer its system to the Mission Water Company for a consideration of \$13,330.00, provided the Mission Company shall agree to assume all obligations for water as existing at present against the Soledad company.

F. P. Feliz, for Applicants.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is an application of Soledad Land and Water Company, of Salinas, Monterey County, for authority to sell its water system to Mission Water Company for the sum of \$13,330.00.

The purpose of this transfer is to relieve the Soledad Land and Water Company of its present obligations as a public utility.

Soledad Land and Water Company was incorporated June 10, 1899, by the Grangers Business Association, of San Benito County. In 1907 it was sold to its present owners, who are residents of Monterey County.

At the present time the company is furnishing water to approximately 450 acres of land near Soledad, Monterey County. Water was formerly obtained from the Salinas River by a pumping and gravity system, but at the present time it is pumped entirely from wells.

Soledad Land and Water Company was incorporated primarily as a land company but with power to locate and own water rights and to own and operate pumping plants.

On May 28, 1910, its articles of incorporation were extended to include the supplying of

“Water for beneficial purposes as a public water company for private use and not for public use to those who will receive and take water at the pumping plant of this corporation upon such terms and conditions as this corporation may by its by-laws and rules prescribe, with preferred right of its stockholders to water.”

In a case filed with this Commission by J. A. Andrew Franscioni et al., complaining against the company's rates and service (Case No. 361), the company's status as a public utility was brought into ques-

tion. It was contended by the company that under the amendment above noted it was clearly not a public utility. The Commission, in a decision rendered February 9, 1914, ruled upon this point in the following language:

“Regardless of the provisions of the articles of incorporation where corporations are found engaged in public utility business, they are public utilities and are subject to all the provisions of the Public Utilities Act.”

A few months after the date of the decision above mentioned Soledad Land and Water Company submitted to this Commission certain agreements which it had entered into with John Ober, F. A. Greateon and Margaret J. Whisman, who were among the complainants in Case No. 361, whereby these consumers agreed to absolve the company from all obligations as to the service of water, in exchange for a conveyance of all of the company's interest in certain rights of way for distributing ditches. These contracts were approved by the Commission in an order dated August 5, 1914.

From the evidence submitted at the hearing it appears that the only other parties, not stockholders, within the line and flow of the company's ditches, and who claim to be consumers, are the following: J. A. Andrew Francioni, L. M. McKinsey, and P. Papina. Of these parties Francioni now operates his own irrigating plant, leaving only McKinsey and Papina to be considered.

Mr. McKinsey appeared at the hearing and protested against the granting of the company's application upon the ground that certain rights to receive water would be jeopardized. No evidence was presented regarding these rights other than the submission of a deed of sale from Soledad Land and Water Company. Upon examination this deed was shown to contain no provisions regarding service of water other than the usual reservation upon the part of the company for ditches across the deeded property.

Upon the other hand, it was brought into evidence that Mr. McKinsey has taken water from the Soledad Land and Water Company only three times since 1907—once in 1910, and twice in 1913. Similarly as regards P. Papina, it was shown that he has taken irrigating water upon only three occasions—once in 1910, once in 1912 and once in 1913.

It was also shown that practically all of the property of these two consumers can be irrigated from other sources.

Applicants represented that they were willing to permit any persons owning lands within the line and flow of their present plant and system to become stockholders in Mission Water Company upon the same terms and with the same privileges as may be enjoyed by any other stockholders.

Applicants also stipulated that they were willing to agree that any existing legal claims for water from Soledad Land and Water Company would be assumed by Mission Water Company.

Applicants alleged that the present value of the properties sought to be transferred is the sum of \$13,330.00. In a valuation made in connection with Case No. 361, the Commission's engineers estimated the present value of the property at \$13,414.00, with an annual depreciation of \$683.00.

The authorized capitalization of Mission Water Company is the sum of \$20,000.00, divided into 200 shares of the par value of \$100.00 per share. No shares have been issued, with the exception of five necessary to qualify directors. Mission Water Company has no outstanding bonds, notes or other indebtedness.

The authorized capitalization of Soledad Water Company is the sum of \$30,000.00, divided into 1,000 shares of stock of the par value of \$30.00 per share. Of this amount 155 shares are now outstanding, divided among nine stockholders. The company has paid no dividends during the past five years and has no outstanding bonds, notes, or other indebtedness.

Applicants state that if the present application is allowed, the present stockholders of Soledad Land and Water Company have agreed to take stock in the new company to the extent of \$13,800.00.

After a consideration of the evidence submitted by the applicants herein, I am of the opinion that this application is proper and should be granted.

I submit the following form of order:

ORDER.

Soledad Land and Water Company and Mission Water Company having applied to this Commission for authority to transfer certain water utility properties in Monterey County, as hereinbefore set forth; and it appearing to this Commission that applicants' request is reasonable and should be granted.

It is hereby ordered that Soledad Land and Water Company be and it is hereby authorized to transfer and sell its water utility properties in Monterey County, which properties are described in a statement which is attached hereto and marked "Exhibit A," to Mission Water Company upon the following conditions, and not otherwise:

1. The transfer herein authorized shall only be made in accordance with the terms of an agreement dated May 4, 1915, copy of which is attached to the petition herein and marked "Exhibit D."

2. The Mission Water Company, within thirty (30) days from the date of this order, shall file an agreement with this Commission, agreeing to assume any legal claims for water which might now or hereafter be enforced against Soledad Land and Water Company.

3. The authority herein granted shall only apply to such transfer of property as shall have been made on or before December 1, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of May, 1915.

EXHIBIT "A."

All of that certain real and personal property situate, lying and being in the county of Monterey, State of California, described as follows, to wit:

All that certain lot, piece or parcel of land bounded and described as follows, to wit: All that portion of lot 3 of the subdivision of Rancho Ex-Mission Soledad, upon which is situated the pumping plant of said Soledad Land and Water Company, and beginning at a point on the western line of a forty-foot road running north $25^{\circ} 34'$, which point of commencement is the intersection of said road with the county road, and running thence north $64^{\circ} 26'$ west along said county road 180 feet to a post; thence north $25^{\circ} 34'$ east 240 feet to a post; thence south $64^{\circ} 26'$ east 180 feet to a post; thence south $25^{\circ} 34'$ west along the said forty-foot road 240 feet to the place of beginning, containing 99/100 acres.

Also all of the canals and ditches, easements and rights of way of Soledad Land and Water Company existing, running and extending on, over and across said lot 3 of the subdivision of said Rancho Ex-Mission Soledad, said canals and ditches being about six miles in length, a little more or less;

Also the pumping plant, machinery and tools situated on the lands above described and used for the pumping and distribution of water thereon and therefrom.

DECISION No. 2429.

LOUIS DEROCHE AND DEROCHE, INC.

vs.

E. E. HALL.

Case No. 792.

Decided May 27, 1915.

Complainants operating a nursery in the district of Hollywood, within the incorporated limits of the city of Los Angeles, petition the Commission to compel defendant, a water utility, to resume serving them with water, and jurisdiction in the matter resting with the city of Los Angeles and not with this Commission. Complaint dismissed.

Louis Derocher, for Complainants.

E. E. Hall, in propria persona.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

Complainants allege in their complaint that they are in the nursery business in Hollywood, this being a portion of the city of Los Angeles; that the defendant operates a public utility water system; that the defendant has heretofore supplied water to the premises now occupied by complainants, but has since turned off the water and discontinued supplying these premises. Complainants ask that the defendant be required to again furnish water to these premises.

I believe it is important to notice the exact issue presented in this complaint. Complainants do not seek to have the Commission require defendant to extend its water mains, but to require the defendant to again give service to premises which have heretofore received water from defendant's system, and which premises are alleged to lie within the area which defendant has undertaken to serve. The subject matter of this complaint, therefore, is not an extension of service, but involves the character and quality of the service to premises heretofore supplied with water from defendant's system.

This being the case, I believe that the city of Los Angeles, and not this Commission, has the exclusive jurisdiction to entertain a complaint of this character. This Commission has already fully discussed the effect of the constitutional and statutory provisions in effect in this State, reserving to the municipalities of this State the powers of control over public utilities which they possessed on March 23, 1912, unless the municipalities voluntarily vote these powers into the Commission. (*Dooley vs. Peoples Water Company*, 3 Cal. R. R. Commission Decisions, 948; *Pratt vs. Spring Valley Water Company*, 4 Cal. R. R. Commission Decisions, 1077.)

The city charter of Los Angeles in effect on March 23, 1912, in section 2 of article I, gives to the municipality the power

“To fix and determine the rates or compensations to be collected by any person, firm or corporation, for water, gas, electric current, refrigeration, heat, light, power, telephones, telephone service or connections, or the conveyance of passengers or freight by means of street railway cars, hacks, cabs or other cars or vehicles for hire, or for the products of, or service by, any other public utility operated or conducted within the city limits; and to prescribe the character and quality of any public utility service.”

This section of the charter expressly gives to the city of Los Angeles the right to prescribe the character and quality of any public utility service supplied within the municipal limits. It seems to me clear, therefore, that the complaint in this case falls within the scope of that

provision, and that the city of Los Angeles has exclusive jurisdiction over the subject matter of this proceeding. I, accordingly, recommend that the complaint in this proceeding be dismissed, and submit the following form of order:

ORDER.

This case having come on regularly for hearing and the Commission being of the opinion that it has no jurisdiction in the premises,

It is hereby ordered that the complaint in this proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 27th day of May, 1915.

DECISION NO. 2430.

C. J. NOEL

vs.

FAIRMOUNT WATER COMPANY.

Case No. 795.

Decided May 28, 1915.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled matter having, on May 16, 1915, made written request to this Commission that said case be dismissed,

It is hereby ordered that the above entitled case be, and the same is hereby, dismissed.

Dated at San Francisco, California, this 28th day of May, 1915.

DECISION NO. 2431.

MERCED RANCH COMPANY

vs.

CROCKER-HUFFMAN LAND AND WATER COMPANY.

Case No. 755.

Decided May 28, 1915.

Complainant petitions the Commission to compel defendant company to take over and maintain a certain lateral through which it receives water for irrigation purposes, and also petitions that it be awarded reparation of certain amounts heretofore paid for water, claiming that it pays irrigation rates on its entire

acreage of 140 acres, though only irrigating 80 acres thereof, and an investigation showing that applicant has entered into a contract to pay the rates at present in effect and is not entitled to reparation, and that the Commission has no jurisdiction to compel defendant to take over the lateral in question, complaint dismissed.

Edmond E. Herrscher, for Complainant.

James F. Peck, for Defendant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

In this case the Merced Ranch Company, hereinafter called the complainant, seeks to fix upon the Crocker-Huffman Land and Water Company, hereinafter designated as the defendant, the obligation of caring for, repairing and keeping clean a certain ditch through which water is conveyed from defendant's main canal to the lands of complainant and other users of water in Merced County, California. At the hearing complainant asked for and received permission to amend its complaint to comprehend a demand for reparation for the payment of water rates, as explained later in this opinion.

A history of the circumstances and conditions which have finally resulted in this suit before the Commission are as follows: For many years defendant and its predecessor have been serving water, for the purpose of irrigation, to lands lying below the gradient of defendant's main canal. In about 1888 John Archer and a Mr. Hooper organized what was known as the Hooper Colony, consisting of about 900 acres of land, which was sold in tracts of varying size to different people. Such purchasers and Archer and Hooper at various times, but approximately 1888, entered into a contract with the Merced Canal and Irrigation Company, predecessor of defendant, copy of which contract was filed with the complaint in this case, under the terms of which contract Archer and Hooper, and other purchasers of land in the aforesaid Hooper Colony, agreed to pay the predecessor of defendant \$10.00 an acre initial payment and \$1.00 per acre per year thereafter for each acre owned by said parties who entered into this agreement with the said predecessor of defendant. For this payment said parties were to receive one cubic foot of water per second during the irrigation season, or so much thereof as was necessary to irrigate their land. These contracts, or agreements, were made about 1888, and were to continue until the 3d day of March, 1933, and thereafter during the existence of the Merced Canal and Irrigation Company, or its successors.

Paragraph 2 of said agreement recites that party of the first part, the Merced Canal and Irrigation Company, predecessor of defendant in this case, as soon as the parties of the second part, predecessors of complainant in this case, were ready to receive the water for their land, would construct and place a suitable box or gate in the bank of the

main canal, or branch thereof, at a point most convenient from which to take water to certain land.

Paragraph 3 of said agreement recites that the parties of the second part were to construct a ditch from said box or gate to said land, but paragraph 3 also contains the following language:

“And the party of the first part may at any time assume full control and management of the ditch so constructed and may enlarge the same and use it to convey water to other lands; providing, however, that such use and control shall not interfere with the flow of water to the land in the first subdivision hereof mentioned,”

“first subdivision hereof mentioned” alluding to the land of predecessor of complainant. Other conditions are set forth in the contract which need not be quoted in this opinion and order, as reference is hereby made to the contract.

From the testimony it appears that the land now owned by complainant was owned by Mrs. A. A. Dunn in 1888, at the time the agreement, or contract, above referred to was entered into between the Merced Canal and Irrigation Company, a corporation, predecessor of defendant, and Mrs. A. A. Dunn, predecessor of complainant.

In conformity with the second paragraph of said agreement, the Merced Canal and Irrigation Company, party of the first part in said agreement, and predecessor of defendant, constructed a ditch from its main canal a distance of several hundred feet to a point convenient from which to furnish Mrs. A. A. Dunn, party of the second part to the agreement, and predecessor to complainant herein, with water for her land and installed a suitable box or gate to furnish said water according to the terms of the agreement.

It is in testimony that Mrs. Dunn, party of the second part to the agreement, and predecessor of complainant herein, according to the terms of the third clause of the agreement, caused to be constructed from the point where said gate or box was installed a ditch across her land to receive the water for irrigating purposes; that said ditch was thereafter constructed in a southerly direction beyond the lands of Mrs. Dunn so as to supply other owners and irrigators in the Hooper Colony.

As will be noted in paragraph 3 of the agreement, while the land owners desiring water for irrigation were charged with the construction of their own ditch, the Merced Canal and Irrigation Company, predecessor of defendant, was authorized at any time to assume full control and management of the ditch so constructed, and might enlarge the same and use it to convey water to other lands, provided such use and control did not interfere with the flow of water to the users beyond whose lands the ditch was constructed to supply other users.

The testimony showed that the Merced Canal and Irrigation Company, predecessor of defendant, helped to keep the ditch in order and at times constructed gates or flumes for water users. It further showed

that the defendant, up to about nine or ten years ago, had assumed the control, care, management and repair of the ditch in question, had sent teams to plow out the ditch when necessary, had repaired its banks, cut the tules and removed the grass from the ditch. Mr. C. D. Martin, who was manager of defendant water company at the time this was done, testified that he considered, in a general way, that he was following the wishes of the defendant company in thus caring for the ditch. The present manager, Mr. S. F. B. Morse, testified that some years ago he concluded that as this ditch was not built by and did not belong to defendant, or its predecessor, it was not the duty of defendant to clean, repair and care for the ditch, and that such care and repairs have since then been left to the owners of the ditch and of the land served by the ditch.

The testimony of complainant, and others, showed that the ditch across complainant's land was not now in good condition, and this was not controverted by witnesses for defendant, but rather admitted with the explanation, however, that much of the present poor condition of the ditch across and over complainant's land was due to three circumstances—first, the washing out of a certain flume or gate on complainant's land, which permitted water to rush down an incline and carry soil into the ditch; second, to the fact that complainant has a hog pasture on both sides of the ditch and that the hogs root and destroy the banks of the ditch; third, that in order to facilitate the irrigation of his land complainant had cut the banks of his ditch at about twenty to twenty-five different places. Defendant disclaimed any liability for the maintenance or repair of the ditch, relying upon the language of the agreement, or contract, above referred to, while complainant maintained that the action of defendant, testified to by witnesses for complainant and admitted by defendant, in caring for the ditch up to about nine or ten years ago places upon defendant the obligation to continue to exercise such care and make such repairs. Careful consideration has been given to the authorities cited by counsel for complainant, but I find nothing therein to lead me to depart from my finding above expressed.

I am not unmindful that the decision of this Commission in Case 361, *J. A. Andrew Franciscona et al. vs. Soledad Land and Water Company*, decided February 9, 1914 (see Opinions and Orders of the Railroad Commission of California, Volume 4, page 184), seems at first glance to be at variance with the decision in the case at bar; but a proper analysis of both decisions will discover the fact that the circumstances of Case 361, *supra*, were dissimilar to those found in this case, and the Commission repeats what it has frequently said in former opinions that each case or application, coming before the Commission for adjudication, must depend upon and be decided upon its own statement of facts.

The testimony as to the capacity of the ditch in its present condition was conflicting. The witnesses for complainant testified that the ditch

in its present condition would carry from one to three second feet, while witnesses for the defendant varied this amount from three to five second feet. The number of acres now being irrigated through this ditch was variously testified to at from 260 to 300 acres, and there seems to be no doubt about there being plenty of water if the ditch across complainant's land was put in good condition so that the water would not flow over the banks by reason of the ditch being filled up, and thus lost before it reaches the land of users on lower levels. Testimony for the defendant showed that the wire fence around complainant's hog yard caught the brush and debris running down the ditch, thus impairing the flow of the water and causing loss thereof. Some of the witnesses living on lower levels than that of complainant found fault, in their testimony, with the manner in which complainant had irrigated his land by putting down the boards of his restraining gate to raise the level of the water to be used in irrigating his land at times when owners below him had notified the ditch-tender that they desired to irrigate, and had a reasonable right to expect the water.

There is no doubt but that some friction has been developed between these neighbors and that each may have some grounds for complaint against the other, but there is also no doubt in my mind as to these little differences being amicably adjusted and forgotten when the ditch across complainant's land is cleaned and repaired, and also that a better feeling will prevail if the land owners irrigating from this ditch will join with the defendant in arranging rotation periods for irrigation.

The real question at issue in this case is: Who should keep this ditch cleaned, repaired and in proper condition to furnish water to complainant's land and to the lands owned by Mrs. Edwards, Mr. Patterson and others south of complainant's land?

As has been said, the complainant in this case seeks to have the Commission require the defendant to care for and operate the lateral ditch through which complainant, and others, receives water. As is shown from the testimony, it appears that in the original contract, under which water was supplied to the territory in which complainant's lands are situated, it was provided that the defendant company

"may at any time assume full control and management of the ditch so constructed and may enlarge the same and use it to convey water to other lands."

I have already called attention to the fact that the record shows that some years ago defendant did, from time to time, clean out this ditch and made necessary repairs to the ditch, and that as a part of such work defendant cut and removed the tules which were impeding the flow of the water in the ditch. The record, however, does not contain any other evidence that defendant has taken over the care and operation of the ditch, but does show that during the last six or seven years the

owners of the land and not defendant have taken care of the ditch and its operation. Defendant expressly declines to take over and operate this ditch as a public utility, and on the evidence in this case it is impossible to charge defendant with the obligation of operating this lateral ditch as a public utility. I must conclude, therefore, and find as a fact that the complaint, in so far as it seeks to have this Commission compel defendant to take over and operate this lateral ditch, must be dismissed.

I earnestly suggest that the water users along this ditch get together and among themselves undertake to care for and operate this ditch; and I further suggest and urge that the defendant company render them every assistance possible in this work. Handled in this way, and with a desire to get along agreeably together, the expense and trouble of the care for and operation of this ditch will be very slight. In fact, from the attitude of the defendant company at the hearing of this case, I am convinced that for a small reasonable sum per acre it might be induced to undertake to permanently care for and operate the ditch.

Another question was raised by complainant, namely, that complainant pays \$1.00 per acre for his total acreage, 140 acres, but that he was not irrigating in excess of 80 acres and that he should be required to pay the \$1.00 per acre only for the amount irrigated. However, I do not regard this claim as having any merit. At the time the contract, or agreement, above referred to as to the sale and purchase of this water was entered into the Merced Canal and Irrigation Company, predecessor of defendant, had two forms of agreement. Under one agreement the parties desiring water for irrigation were to pay an initial charge of \$10.00 per acre and \$1.00 per year for each acre held by them. Under the agreement they were entitled to receive water by gravity upon their lands, but no deductions were to be made for knolls or high places on the land which gravity water would not reach. Under the other form of agreement purchasers of water were to pay an initial charge of \$20.00 per acre and a yearly charge of \$2.00 per acre for their holdings, but deductions were to be made for such acreage as could not be irrigated by gravity water.

It was in testimony that the complainant in this case had stated to the manager of defendant that he preferred the contract entered into between his predecessor and the predecessor of defendant rather than the second form of contract just referred to. (See Transcript, page 154.)

I find as a fact that complainant is not entitled to reparation, as prayed for.

I submit herewith the following form of order:

ORDER.

The Merced Ranch Company, a corporation, of Merced County, California, having filed a complaint before this Commission against the Crocker-Huffman Land and Water Company, a corporation, asking that

the Crocker-Huffman Land and Water Company be compelled to take over and operate a certain lateral ditch through which the complainant and other consumers receive their water for irrigation; and also that reparation be awarded complainant, as set forth in the opinion preceding this order; and a public hearing having been held at Merced on the 30th day of March, 1915, at which time the matters and things involved in this case were thoroughly gone into, and the Commission having found as a fact that it could not, under the law, compel defendant to take over and operate the lateral ditch in question; and having further found as a fact that complainant was not entitled to reparation as prayed for in its amendment to the original complaint, and that the complaint both as to the prayer that defendant take over and operate the lateral ditch in question, and also as to complainant's prayer for reparation, should be dismissed,

It is hereby ordered that the complaint of the Merced Ranch Company, a corporation, complainant, vs. Crocker-Huffman Land and Water Company, a corporation, defendant, Case 755, be and it is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, this 28th day of May, 1915.

DECISION No. 2432.

DAVID A. CURRY

vs.

THE YOSEMITE VALLEY RAILROAD COMPANY, THE YOSEMITE
TRANSPORTATION COMPANY, SOUTHERN PACIFIC RAILROAD
COMPANY, AND THE ATCHISON, TOPEKA AND SANTA FE RAIL-
WAY COMPANY.

Case No. 783.

Decided May 29, 1915.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission having, on April 23, 1915, made an order in this proceeding directing the establishment of a daylight through service each way between San Francisco and Yosemite, and it appearing that since said order was made the complainant, David A. Curry, has agreed with the defendant companies that his complaint in this proceeding will be entirely satisfied if he is given a through daylight service from San Francisco to Yosemite on Saturday of each week and a through daylight service from Yosemite to San Francisco on Sunday of each week, this

service to become effective May 29, 1915, and to continue until September 15, 1915, and to be in effect during the same season of each year in the future unless otherwise ordered by this Commission, and complainant having asked that, in lieu of the order heretofore made on April 23, 1915, the Commission put into effect an order in accordance with the agreement herein outlined,

It is hereby ordered that the defendant companies put into effect a through daylight service from San Francisco to Yosemite on Saturday of each week and a through daylight service from Yosemite to San Francisco on Sunday of each week, this service to become effective May 29, 1915, and to continue until September 15, 1915, and to be in effect during the same season of each year in the future unless otherwise ordered by this Commission;

It is further ordered that the defendant shall immediately file with the Commission, subject to its approval, a schedule of service in accordance with the above agreement; and

It is further ordered that the order herein shall stand in lieu of the order heretofore made in this proceeding on April 15, 1915.

Dated at San Francisco, California, this 29th day of May, 1915.

DECISION No. 2433.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO HOME TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF A PROMISSORY NOTE IN THE SUM OF TWENTY THOUSAND DOLLARS AND THE DEPOSIT OF BONDS OF SAID CORPORATION AS COLLATERAL

Application No. 1679.

Decided May 29, 1915.

Applicant, having a note outstanding in the sum of \$20,000.00, pays off \$12,000.00 thereof from earnings and applies for permission to issue a new note of the face value of \$20,000.00, \$12,000.00 thereof to reimburse treasury, the balance to pay up the remainder of the old note. Application to issue note granted and applicant authorized to pledge bonds at the ratio of three to one as security therefor.

Charles E. Sumner, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

This is an application of San Diego Home Telephone Company for authority to issue a promissory note to American National Bank of San Diego in the sum of \$20,000.00 and to secure the same by pledge of its bonds in the ratio of three to one.

San Diego Home Telephone Company operates in San Diego, National City, Chula Vista and other points in San Diego County. On December 31, 1914, its subscribers numbered 5,464.

In an order dated October 29, 1913, this Commission authorized applicant to issue \$150,000.00 of promissory notes, bearing interest at the rate of 6 per cent per annum and secured by a deposit of bonds in the ratio of two to one. This order was later amended to allow the company to pledge its bonds in the ratio of three to one.

Among the purposes for which these notes were authorized was the payment of a note dated June 5, 1913, in favor of the American National Bank of San Diego in the sum of \$20,000.00.

The evidence now presented shows that only \$13,000.00 of the \$150,000.00 of promissory notes above mentioned were issued, and that the note of \$20,000.00 was never paid. It further appears that of the \$150,000.00 of promissory notes authorized to be issued only \$5,000.00 are outstanding.

At the beginning of the present year, American National Bank made request upon the company for the payment of this \$20,000.00 note, and \$12,000.00 has been paid by the company on account.

In order to make these payments the company diverted from its earnings the sum of \$3,000.00 monthly during the months of January, February, March and April, 1915.

In the present application the company asks for authority to issue a note in the sum of \$20,000.00 to American National Bank of San Diego, bearing interest at the rate of 6 per cent per annum, and to use \$12,000.00 of the proceeds in reimbursing its treasury for the above mentioned sums diverted from earnings during January, February, March and April, 1915.

This \$12,000.00, when returned to the company's treasury, will be used toward the payment of bond interest falling due on June 15, 1915. The balance of \$8,000.00 the company proposes to use in paying off the balance of the old note to American National Bank, dated June 5, 1913. The company further asks for authority to pledge its bonds in the ratio of three to one, as security for the new note.

Applicant has recently come under new management and states that it has already effected a saving of over \$700.00 per month in salaries and overhead. Applicant has stipulated that it will set aside \$500.00 per month to be used in paying off the \$20,000.00 note herein applied for.

Under these circumstances, I believe the company's application may be granted, and I accordingly recommend the following form of order:

ORDER.

San Diego Home Telephone Company having applied to this Commission for authority to issue a note in the sum of \$20,000.00 to American National Bank of San Diego, and to secure the same by pledge of its bonds in the ratio of three to one, as hereinbefore set forth;

And it appearing that the purposes for which the company proposes to issue said note are not reasonably chargeable to operating expenses or to income,

It is hereby ordered that San Diego Home Telephone Company be, and it is hereby, granted authority to issue its promissory note to American National Bank of San Diego in the sum of \$20,000.00.

It is further ordered that San Diego Home Telephone Company be, and it is hereby, granted authority to pledge its bonds as collateral security for said note.

The order herein made is granted upon the following conditions, and not otherwise:

1. The note herein authorized shall bear interest at not to exceed 6 per cent per annum, and shall be made payable not later than three years after the date of the order herein.

2. The face value of the note herein authorized shall at no time be less than $33\frac{1}{3}$ per cent of the face value of the bonds pledged as collateral.

3. As the principal of the note herein authorized is paid off, a proportionate amount of the bonds pledged as security shall be released and returned to the applicant's treasury. Said bonds shall not thereafter be issued without the order of this Commission.

4. This order shall apply only to such notes and bonds as shall have been issued on or before November 1, 1915.

5. The order herein is made contingent upon the payment by the applicant of the fee prescribed by the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of May, 1915.

DECISION No. 2434.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND EASTERN RAILWAY TO ISSUE NOTES.

Application No. 1570.

Decided May 29, 1915.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

This Commission, on April 24, 1915 (Decision No. 2327), having authorized Oakland, Antioch and Eastern Railway to issue certain notes, including a note to the Union Trust Company of San Francisco in the

sum of \$100,400.00, to be used in refunding a similar note now outstanding;

And this Commission having further authorized Oakland, Antioch and Eastern Railway to pledge certain of its first mortgage five per cent bonds as collateral security for said notes;

And Oakland, Antioch and Eastern Railway now having requested this Commission to modify its original order to the extent that it may be allowed the option of renewing the above mentioned note to Union Trust Company of San Francisco, or of allowing the old note to stand without such renewal, but in either case to be allowed the privilege of pledging its first mortgage five per cent bonds as security for said note, subject to the conditions of the original order herein;

And it appearing to the Commission that such request is reasonable and should be granted,

It is hereby ordered that the Commission's decision in the above mentioned proceeding, dated April 24, 1915, be, and it is hereby, amended to permit Oakland, Antioch and Eastern Railway to either renew the promissory note therein mentioned as payable to Union Trust Company of San Francisco in the sum of \$100,400.00, or to allow a similar note now outstanding to remain in full effect—applicant in either case to be allowed the privilege of pledging its first mortgage five per cent bonds as collateral security for the payment of said note, according to the terms of the Commission's original order in this proceeding;

It is further ordered that the order herein made shall be subject to all the conditions heretofore imposed in Decision No. 2327, not in conflict with the order herein.

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of May, 1915.

DECISION No. 2435.

IN THE MATTER OF THE APPLICATION OF FAY WATER COMPANY
FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 1604.

Decided May 29, 1915.

Present owners of the water serving territory in and adjacent to Port San Luis and Avila authorized to transfer such system to the Fay Water Company, which latter company is granted permission to issue 720 shares of its capital stock of the par value of \$100.00 per share in payment therefor, such transfer not to be advanced as a reason for increasing rates.

S. V. Wright, for Applicant.

70—17493

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner*.

This is an application for the sale and transfer of a water utility plant and system, owned by the heirs of the estate of Luigi Marre, deceased, to Fay Water Company and for said Fay Water Company to issue common capital stock to the par value of \$90,000.00.

Fay Water Company was organized November 9, 1914, with an authorized capital stock of \$150,000.00, divided into 1,500 shares of the par value of \$100.00 each. The company was organized by the heirs of the estate of Luigi Marre, deceased.

The heirs desire to transfer such portions of the estate (see Exhibit "A" hereunto attached) as they consider necessary to the successful operation of the water utility to the Fay Water Company and thereby to segregate the water utility business from their much larger interests, consisting of a nine thousand (9,000) acre ranch located along the coast in the vicinity of Port San Luis, San Luis Obispo County.

Heretofore the Marre estate has furnished water to vessels calling at Port San Luis and has also sold water in wholesale quantities for domestic purposes in Avila and surrounding territory on the bay of San Luis Obispo. In payment for the property which Fay Water Company proposes to acquire, it desires to issue its common capital stock to the par value of \$90,000.00.

In Exhibit "C" attached to this application, applicant estimates the value of the property to be conveyed to Fay Water Company at \$124,800.00. This amount is composed of the following items:

| | |
|-----------------------------------|--------------|
| Water rights, Harford Canyon..... | \$50,000 00 |
| Rights of way..... | 15,150 00 |
| Reservoir sites | 41,070 00 |
| Pumping plant sites..... | 3,000 00 |
| Pipe lines | 11,780 00 |
| Dwelling | 2,200 00 |
| Tank | 1,600 00 |
| Total | \$124,800 00 |

Subsequent to the hearing held on April 29, 1915, at San Luis Obispo, the hydraulic engineering department of this Commission made an examination of the physical property against which Fay Water Company desires to issue stock. The Commission's engineers estimate the present value of the physical property, as shown in Commission's Exhibit No. 1, at \$72,000.00. The estimated value includes the following:

| | |
|-------------------------------|-------------|
| Rights of way..... | \$12,350 00 |
| Reservoir sites | 41,070 00 |
| Pumping plants and sites..... | 3,000 00 |
| Pipe lines | 11,780 00 |
| Dwelling | 2,200 00 |
| Tank | 1,600 00 |
| Total | \$72,000 00 |

Attorney for applicant accepted the appraisal made by the engineering department of this Commission. In addition to the physical property he alleged that it is proposed to transfer to the Fay Water Company some valuable water rights. While he asked to have this Commission place a value upon the water rights, he frankly admitted that he was not prepared to prove the existence of such water rights. I am of the opinion that it is unnecessary to consider either the existence or value of water rights in the decision, or for the purpose of the order made herein, and nothing contained herein or in attached Schedule "A" shall be considered as a finding in that regard.

It appears that the accounts of this utility have heretofore been kept inaccurately and do not present a complete record of operating expenses properly chargeable against the public utility business. The evidence shows that the expenses approximate \$2,000.00 per annum.

During 1912 the gross receipts from the sale of water amounted to \$8,021.55, and during 1913 to \$8,328.69.

I herewith submit the following order:

ORDER.

The heirs of the estate of Luigi Marre, deceased, having applied to sell and Fay Water Company to purchase a certain water plant and system more specifically described in Exhibit "B" attached to this application, and Fay Water Company having applied for authority to issue its common capital stock to the par value of \$90,000.00 in payment for said property, and a hearing having been held, and the Commission being fully apprised in the premises, and it appearing that the stock hereinafter authorized to be issued is not in whole or in part reasonably chargeable to operating expenses or to income;

The Commission hereby finds as a fact that public convenience and necessity will be served by permitting the transfer of the properties described in Exhibit "A" hereunto attached, to Fay Water Company, and basing its order upon the foregoing findings of fact and the findings of fact in the foregoing opinion,

It is hereby ordered that the heirs of the estate of Luigi Marre, deceased, be given and hereby are given authority to sell, and Fay Water Company to purchase, the property more specifically described in Exhibit "A" attached hereto.

It is further ordered that Fay Water Company be granted authority, and is hereby granted authority, to issue seven hundred and twenty (720) shares of its capital stock of the par value of \$100.00 per share to the heirs of the estate of Luigi Marre, deceased, as follows:

360 shares to Angela L. Marre,
120 shares to Gaspar O. Marre,
120 shares to Louis J. Marre,
120 shares to Rosa T. Marre Piuma,

720 shares total.

The foregoing authority is granted upon the following conditions and not otherwise:

(1) The values referred to in the foregoing opinion of the property herein authorized to be sold and purchased, or the purchase price herein authorized to be paid, shall not be binding upon this Commission or any other rate fixing body for rate-fixing purposes or otherwise.

(2) The fact of this exchange in ownership of the property shall not be used for the purpose of increasing or changing the rates for water delivered by Fay Water Company from the system it is herein authorized to purchase.

(3) The stock to be issued by Fay Water Company to the heirs of the estate of Luigi Marre, deceased, shall not be issued and delivered until such time as Fay Water Company has secured a good and sufficient deed to the property to be transferred to it by the heirs of the estate of Luigi Marre, deceased.

(4) Applicant shall report to this Commission when the stock herein authorized is issued and the property transferred to Fay Water Company.

(5) This order shall apply only to such stock as may be issued on or before December 31, 1915.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 29th day of May, 1915.

EXHIBIT "A."

Gaspar O. Marre, Louis J. Marre and Angela L. Marre, all of the county of San Luis Obispo, State of California, and Rosa J. Marre Piuma, formerly Rosa J. Marre, under which name she received title to the hereinafter described real property, of the county of San Luis Obispo, State of California, for and in consideration of ten dollars (\$10.00), the receipt whereof is hereby acknowledged,

Do grant to Fay Water Company, a corporation organized and existing under and by virtue of the laws of the State of California,

All that real property situate in the county of San Luis Obispo, State of California, and bounded and described as follows:

First—That part of lot Y of the subdivisions of the Rancho San Miguelito, beginning at an iron pipe driven in the ground northeast of the large tank near the residence of G. O. Marre, from which pipe a 4-inch inlet pipe to the tank bears N. 87 deg. 40' W. 29 feet distant, and a 2-inch outlet pipe bears S. 36 deg. 40' W. 20.9 feet distant, and running thence N. 57 deg. 56' W. 1,067 feet to an iron pipe driven in the ground at the top of the hill, and 1,226.5 feet to a spike driven in a live oak tree 28 inches in diameter; thence S. 83 deg. 10' W. 619 feet

to an iron pipe driven in the ground, from which a live oak tree 48 inches in diameter bears N. 74 deg. E. 25.8 feet distant; thence S. 0 deg. 38' W. 1.065 feet to iron pipe driven in the ground near top of bank above old railroad cut, from which a live oak tree 12 inches in diameter bears N. 24 deg. 20' W. 11.3 feet distant, and 1,082 feet to the northerly line of the right of way conveyed by Harford and Ingalls to the San Luis Obispo and Santa Maria Valley Railroad Company by deed dated June 5, 1875, and recorded in Vol. G, page 351 *et seq.*, San Luis Obispo County records; thence along said right of way S. 76½ deg. E. 45.5 feet, N. 88½ deg. E. 200.3 feet, N. 70 deg. E. 171.4 feet, S. 85½ deg. E. 146.1 feet, N. 89½ deg. E. 123.6 feet, S. 46½ deg. E. 157.8 feet, S. 72½ deg. E. 42.1 feet, N. 82½ deg. E. 181.3 feet, S. 81½ deg. E. 168.6 feet; thence continuing along the line of right of way as described and fixed by the deed hereinbefore referred to and by another deed from Harford and Ingalls to the said railroad, dated February 7, 1876, and recorded in Vol. II, page 303 *et seq.*, San Luis Obispo County records, N. 13 deg. E. 20 feet, S. 89½ deg. E. 161.6 feet, N. 79½ deg. E. 170.3 feet, N. 71½ deg. E. 138.8 feet, N. 53½ deg. E. 69.8 feet to an iron pipe driven in the ground; thence N. 3 deg. 44' E. 456 feet to the point of beginning, and containing 36.67 acres of land, more or less, but reserving a right of way 25 feet wide for a road as the same is now traveled, or where it may be best constructed in case of slides, washouts, etc., occurring.

Second—A site for a reservoir to be used for reservoir and water development and supply purposes only beginning at a point 20 feet N. 40 deg. E. from the stake at station "O" of the survey of "Extension of right of way for pipe line," as hereinafter described, from which said stake a sycamore tree 24 inches in diameter bears N. 85½ deg. W. 56 feet distant, and running thence N. 50 deg. W. 100 feet; thence S. 40 deg. W. 80 feet; thence S. 50 deg. E. 100 feet; and thence N. 40 deg. E. 80 feet to the point of beginning, and to be known as the upper (new) reservoir site, and being a part of lot V said subdivisions.

Third—That certain reservoir site, being the present concrete intake tank, beginning at a live oak tree 12 inches in diameter marked "No. 1" about 25 feet E. of the concrete intake tank and running thence N. 29 deg. 55' W. 94 feet to a live oak tree 7 inches in diameter marked "No. 2"; thence S. 60 deg. 05' W. 100 feet; thence S. 29 deg 55' E. 94 feet; thence N. 60 deg. 05' E. 100 feet to the point of beginning; being a part of said lot V.

Fourth—That certain reservoir and damsite at the head of the present east side pipe line, beginning at station "O" of the survey of the east side pipe line, as hereinafter described, from which station in the bed of Harford Creek a live oak tree 12 inches in diameter bears N. 34 deg. 07' E. 37.3 feet distant and running thence up the said Harford

Creek with the meanders thereof to a point bearing N. 2 deg. 27' W. 136 feet, thence N. 46 deg. 63' W. 130 feet distant, and to have a uniform width of 60 feet and lying 30 feet on each side of the creek channel; being a part of lot V of said subdivisions of said Rancho San Miguelito.

Fifth—That certain upper pumping plant site, beginning at a stake on the west bank of Harford Creek, from which station 33+36.9 of the survey of the east side pipe line, hereinafter given, bears S. 86 $\frac{1}{4}$ deg. E. 107 feet distant, and running thence N. 5 $\frac{1}{4}$ deg. E. 29.9 feet to stake at the corner of the field fence; thence along said fence N. 77 deg. W. 30 feet to stake in fence line; thence S. 2 $\frac{1}{4}$ deg. W. 60 feet to stake; thence S. 82 $\frac{3}{4}$ deg. E. 28 feet to stake; thence N. 5 $\frac{1}{4}$ deg. E. 27.1 feet to the point of beginning, together with a right of way ten feet wide for pipe lines extending from said station 33+36.9 N. 86 $\frac{1}{4}$ deg. W. 107 feet and lying equally 5 feet on each side of said described line; the said upper pumping plant site being part of lot No. 47 of the said subdivisions of said rancho.

Sixth—That certain lower pumping plant site, a part of said lot No. 47, beginning at an iron pipe driven in the earth on the west side of Harford Creek, from which station 40+32.7 of the survey of the east side pipe line, hereinafter described, bears N. 79 deg. 19' E. 123.7 feet distant, and running thence N. 81 deg. 59' E. 55 feet to iron pipe driven in the earth; thence N. 8 deg. 01' W. 55 feet to iron pipe driven in the earth; thence S. 81 deg. 59' W. 55 feet to iron pipe driven in the earth; and thence S. 8 deg. 01' E. 55 feet to the point of beginning.

Seventh—That certain pipe line situate along the following described line and a right of way ten feet wide, five feet on each side of the said line, to be used only for water pipes and for laying, repairing and removing the same, and only in connection with the water business of the grantee, and herein known as the east side line, beginning at station "O" at intake with wooden curb, on east side of Harford Creek, from which live oak tree 12 inches in diameter bears N. 37 deg. 24' E. 37.3 feet distant, and running thence S. 30 deg. 32' E. 102.4 feet; thence S. 5 deg. 39' W. 91.8 feet; thence S. 9 deg. 50' E. 88.8 feet; thence S. 6 deg. 41' E. 215 feet; thence S. 7 deg. 31' E. 165.3 feet; thence S. 1 deg. 36' E. 162.5 feet to station 9+86.6 from which a live oak 24 inches in diameter bears S. $\frac{1}{2}$ deg. W. 6.5 feet distant; thence S. 15 deg. 07' E. 398.9 feet; thence S. 0 deg. 40' W. 237.1 feet; thence S. 10 deg. 39' E. 346.7 feet to station 19+79.3 from which a live oak tree 50 inches in diameter bears N. 86 $\frac{1}{4}$ deg. W. 4.3 feet distant; thence by a right circular curve of 460 foot radius tangent to last course 152 feet; thence by left circular curve of 270 feet radius, 157.4 feet; thence S. 12 deg. 38' E. 156 feet; thence by a right circular curve of 1,200 foot radius, tangent to last course, 364 feet; thence S. 4 deg. 45' W. 300.2 feet; thence S. 4 deg. 16' W. 228 feet to "T" at station 33+36.9; thence S.

4 deg. 43' W. 695.8 feet; thence S. 79 deg. 19' W. 97.1 feet; thence S. 8 deg. 40' W. 102.7 feet; thence S. 23 deg. 00' W. 281.1 feet to station 45+13.6 at "Y" in line to Avila, and 300.4 feet to station 45+32.9 from which the southeast corner of yard at old Marre residence bears S. 42 deg. 41' W. 51 feet distant; thence S. 21 deg. 52' W. 516.2 feet; thence S. 29 deg. 47' W. 74.4 feet; thence by circular curve of 120 foot radius, tangent to last course, 90.6 feet; thence S. 13 deg. 27' E. 46.5 feet; thence S. 21 deg. 20' E. 84.5 feet; and thence S. 20 deg. 23' E. 83.1 feet to "T" at inlet to main tank, and 149.7 feet to station 54+94.8 at point of junction with the west side pipe line from tank, and all being situate in lots V, Y, and 47 of said subdivisions of said rancho.

Eighth—That certain pipe line situate in said lots V and Y and lying along the following described line and a right of way ten feet wide, five feet on each side of the said line, to be used only for water pipes and for laying and repairing and removing the same, and only in connection with the water business of the grantee; and herein known as the west side line, beginning at a point at the centre of the southerly end of the concrete inlet tank on the east side of Harford Creek, from which a live oak tree 12 inches in diameter bears S. 88 deg. 50' E. 30.2 feet distant, and running thence S. 28 deg. 43' E. 19 feet; thence S. 34 deg. 41' E. 64.5 feet; thence S. 17 deg. 00' E. 120.4 feet; thence S. 9 deg. 09' E. 556.1 feet; thence S. 34 deg. 50' W. 284.5 feet; thence S. 2 deg. 10' W. 165.0 feet; thence S. 2 deg. 51' E. 189.3 feet; thence S. 0 deg. 35' E. 194.8 feet; thence S. 28 deg. 57' E. 114.9 feet; thence S. 28 deg. 04' E. 199.0 feet; thence S. 10 deg. 03' E. 122.1 feet to station 19+49.6 from which a live oak tree 12 inches in diameter bears S. 33 deg. 05' W. 38.6 feet distant; thence S. 5 deg. 33' E. 76.5 feet; thence S. 3 deg. 42' W. 238.3 feet; thence S. 11 deg. 53' E. 118.6 feet to station 23+83 from which a live oak tree 12 inches in diameter bears S. 36 deg. 50' E. 10.5 feet distant; thence S. 5 deg. 23' E. 192.0 feet; thence S. 0 deg. 53' W. 276.8 feet; thence S. 25 deg. 24' E. 141.8 feet; thence S. 20 deg. 14' E. 82.1 feet; thence S. 4 deg. 45' W. 275.4 feet; thence S. 4 deg. 01' W. 181.4 feet to station 35+32.5 from which a sycamore tree 36 inches in diameter bears N. 25 deg. 34' E. 57.3 feet distant; thence S. 2 deg. 00' W. 740 feet; thence S. 5 deg. 10' E. 248.9 feet; thence S. 28 deg. 11' W. 181.0 feet; thence S. 6 deg. 23' W. 310.1 feet; thence S. 19 deg. 42' W. 103.6 feet; thence S. 31 deg. 20' W. 235.8 feet; thence by the left curve of 80 feet radius, tangent to last course, 78.2 feet; thence S. 24 deg. 45' E. 122.1 feet; thence S. 5 deg. 45' W. 120.0 feet; thence S. 0 deg. 03' E. 452.2 feet to station 64+22.4 from which a blue gum tree 36 inches in diameter bears S. 79 deg. 20' E. 6.9 feet distant; thence S. 5 deg. 28' W. 285.2 feet to station 64+09.6, from which the southwest corner of the yard at the old Marre residence bears N. 65 deg. 40' E. 6.9 feet distant; thence S. 0 deg. 42' E. 152.6 feet; thence by a right cir-

cular curve of 80 feet radius, tangent to last course, 66.2 feet; thence S. 48 deg. 28' W. 22.5 feet; thence by a left circular curve of 80 feet radius, tangent to last course, 79 feet; thence S. 0 deg. 07' E. 48.5 feet; thence S. 26 deg. 25' E. 93.4 feet; thence S. 33 deg. 45' W. 147.9 feet; thence by a left curve of 80 feet radius, tangent to last course, 32 feet; thence S. 63 deg. 31' E. 116.1 feet; thence S. 48 deg. 50' E. 130.4 feet; and thence S. 20 deg. W. 53 feet to station 73+51.2 at inlet to main tank on the 36.67 acre tract hereinbefore described.

Ninth—That certain pipe line situate in said lot V and lying along the following described line and a right of way ten feet wide, five feet on each side of said line, to be used only for water pipes and for laying and repairing and removing the same, and only in connection with the water business of the grantee, and herein known as the red tank line, beginning at the dam in Harford Creek at the concrete intake tank before described, and running thence S. 35½ deg. E. 82 feet; thence S. 16½ deg. E. 176.6 feet; thence S. 7½ deg. E. 179.5 feet; thence S. 16½ deg. E. 150.9 feet; thence S. 26 deg. 25' E. 192.1 feet; thence S. 4 deg. 50' W. 85.4 feet; thence S. 33 deg. 35' W. 53.0 feet; thence S. 70½ deg. W. 69.5 feet to station 9+89 at east end of wooden tank in east bank of Harford Creek; thence from south side of said tank S. 30 deg. W. 107 feet; thence S. 8 deg. E. 262 feet; thence S. 5½ deg. W. 196 feet to north side of the red tank hereinbefore described, thence from the south side of said tank, S. 9 deg. 53' E. 290.4 feet to station 18+44.4, the same being station 18+27.5 of the survey of the west side line herein before described.

Tenth—A right of way for pipe line for water purposes only to be used in connection with the water business of the grantee, same to be ten feet wide and to extend five feet on each side of the following described line, to be used only for water pipes and for laying and repairing and removing the same, and herein known as the west side line extension, beginning at the dam in Harford Creek, described in the "red tank line" and running thence N. 57 deg. W. 82 feet; thence N. 10 deg. 25' W. 96.5 feet; thence N. 4 deg. 25' W. 121.5 feet; thence N. 4 deg. W. 96.4 feet; thence N. 57 deg. 40' W. 303.6 feet to station 6+00 from which a three-forked laurel tree 40 inches in diameter bears S. 33 deg. W. 2 feet distant; thence N. 62 deg. 05' W. 142.8 feet to station 7+42.8 from which a sycamore tree 24 inches in diameter bears N. 85½ deg. W. 56 feet distant; all being on said lot V of said rancho.

Eleventh—That certain pipe line situate in said lot Y and lying along the following described line and a right of way ten feet wide, five feet on each side of said line (except where pipe line leaves the land of the grantors) said right of way to be used only for water pipes, and for laying, repairing and removing the same, and only in connection with

the water business of the grantee, also all rights of way and easements of the grantors in, along and across the property of others connected with this pipe line which is herein known as the wharf lines, and beginning at the tank on the 36.67 acre tract hereinbefore described and running thence S. 4 deg. E. 56 feet to station 54+94.8 at termination of east side line aforesaid; thence S. 0 deg. 38' E. 272.2 feet; thence S. 39 deg. 14' W. 394.7 feet; thence S. 52 deg. 03' W. 83.4 feet to station 8+06.3 on north side of the track of the Pacific Coast Railroad; thence N. 85 deg. 26' W. 24 feet to station 8+30.3 at "Y" for line leading to the new wharf; thence continuing along the right of way of said railroad westerly 4,524.7 feet to station 53+55 on bridge No. 1 at "Y" of pipe leading to tank on lands of the Union Oil Company, continuing along right of way before named and along Pacific Coast Steamship wharf 4,500 feet to station 98+55 at end of the pipe line near end of said wharf; also commencing at said station 8+30.3 of last described line and running thence across railroad track southerly, and thence southwesterly and southerly along the said new wharf 2,734 feet to end of pipe near end of wharf; also the pipe line to tanks on Union Oil Company's land and tank site beginning at station 53+55 of the wharf line, before described, and running thence N. 14 deg. 16' E. 165 feet; also the two tanks of the grantors located on said lands of the Union Oil Company, and the rights of the grantors to maintain the same.

Twelfth—That certain pipe line situate in said lots Y and 47 of said rancho and lying along the following described line and a right of way ten feet wide, five feet on each side of said line to be used only for water pipe and for laying and repairing and removing the same, and only in connection with the water business of the grantee, and herein known as the Avila town three-inch line, and beginning at "Y" in the east side line at station 45+13.6, as hereinbefore described, and running thence S. 79 deg. 32' E. 281.5 feet; thence S. 25 deg. 39' E. 124.5 feet; thence S. 40 deg. 34' E. 168.2 feet; thence N. 87 deg. 55' E. 107.1 feet to "Y" at station 6+81.3; thence N. 86 deg. 10' E. 178.7 feet to station 8+60 at termination of right of way on east bank of San Luis Obispo Creek.

Thirteenth—That certain pipe line situate in said lots Y and 47 of said rancho and lying along the following described line and a right of way ten feet wide, five feet on each side of said line, to be used only for water pipes and for laying, repairing and removing the same, and only in connection with the water business of the grantee, and herein known as the Port Harford Asphalt Refinery line, and beginning at "Y" at station 6+81.3 of the survey of the Avila town line as hereinbefore described, and running thence N. 82 deg. 47' E. 98.7 feet; thence N. 51 deg. 31' E. 312.4 feet; thence N. 59 deg. 09' E. 138.7 feet; thence

N. 39 deg. E. 222.8 feet; thence N. 59 deg. 50' E. 118.4 feet; thence N. 35 deg. 28' E. 79.5 feet; thence N. 48 deg. 03' E. 169.1 feet; thence N. 76 deg. 31' E. 187.4 feet; thence S. 88 deg. 26' E. 114.6 feet; thence N. 86 deg. 32' E. 183.0 feet; thence S. 89 deg. 04' E. 183.0 feet; thence N. 75 deg. 43' E. 44.3 feet; and thence N. 55 deg. 50' E. 51.6 feet to station 19+03.5 at the fence line of the leasehold of the Port Harford Asphalt Refinery Company.

Fourteenth—All the waters of Harford canyon on the Marre ranch near Avila and Port San Luis which have been developed or which may be developed on any part of the hereinbefore described lands hereby conveyed to the grantee, but excepting and reserving therefrom so much water as may be necessary and convenient for domestic use, watering of live stock, irrigation of house garden and general use on the larger tract from which the aforesaid lands have been carved, not exceeding an average monthly consumption of two hundred thousand (200,000) gallons, nor exceeding ten thousand (10,000) gallons a day, which waters are reserved of and from the waters already produced and which may be produced in said Harford canyon for such use on said lands of the grantors.

Fifteenth—Also all rights of the grantors as distributors of the estate of Luigi Marre, deceased, or otherwise, in and to and growing out of contracts and agreements for furnishing and supplying of water to Pacific Coast Railway Company, a corporation (two agreements), Union Oil Company of California, a corporation, Producers Transportation Company, a corporation, C. H. Morrell assigned to Fannie M. Glassell and M. J. Simas, and all other water customers of the grantors.

Witness our hands this seventh day of December, 1914.

Signed, sealed and delivered.

GASPAR O. MARRE [SEAL].
LOUIS J. MARRE [SEAL].
ANGELA L. MARRE [SEAL].
ROSA J. MARRE PIUMA [SEAL].

STATE OF CALIFORNIA, }
County of San Luis Obispo. } ss.

On this seventh day of December, one thousand nine hundred and fourteen, before me, S. V. Wright, a notary public in and for said county of San Luis Obispo, duly commissioned and sworn, personally appeared Gaspar O. Marre, Louis J. Marre, Angela L. Marre and Rosa J. Marre Piuma, known to me to be the persons described in and whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal at my office in the county of San Luis Obispo, the day and year in this certificate first above written.

[SEAL.]

S. V. WRIGHT,
Notary Public in and for the county of
San Luis Obispo, State of California.

[\$90.00 internal revenue
duly canceled.]

GRADE CROSSINGS.

| Application No. | Decision No. | Applicant | Location | Action | Date |
|--------------------|-----------------|---|-------------------------|-----------|---------------|
| 2045 | 1439 | The People of the State of California on Relation of the Department of Engineering | Sutter Co. | Granted | Jan. 2, 1915 |
| 2046 | 1472 | Southern Pacific Co. | Alameda Co. | Granted | Jan. 2, 1915 |
| 2071 | 214 | Vallejo and Northern R. R. Co. | Sacramento | Dismissed | Jan. 15, 1915 |
| 2080 | 1403 | City of Bakersfield. | Bakersfield | Granted | Jan. 15, 1915 |
| 2082 | 1483 | Southern Pacific Co. | Placerville | Granted | Jan. 15, 1915 |
| 2084 | 1478 | Southern Pacific Co. | Vernon | Granted | Jan. 18, 1915 |
| 2086 | 1495 | Pacific Electric Ry. Co. | Riverside Co. | Granted | Jan. 20, 1915 |
| 2088 | 1494 | Pacific Electric Ry. Co. | Riverside Co. | Granted | Jan. 20, 1915 |
| 2098 | 825 | Atchison, Topeka and Santa Fe Ry. Co. on behalf of San Francisco-Oakland Terminal Rys. | Richmond | Dismissed | Jan. 27, 1915 |
| 2102 | 1371 | Board of Supervisors of Kern Co. | Kern Co. | Granted | Jan. 27, 1915 |
| 2103 | 1372 | Board of Supervisors of Kern Co. | Kern Co. | Granted | Jan. 27, 1915 |
| 2111 | 1515 | Pacific Electric Ry. Co. | Corona | Granted | Jan. 29, 1915 |
| 2113 | 612 | County of San Mateo. | San Mateo Co. | Dismissed | Jan. 29, 1915 |
| 2115 | 1213 | Board of Supervisors of San Joaquin Co. | San Joaquin Co. | Granted | Jan. 30, 1915 |
| 2116 | 1514 | San Francisco-Oakland Terminal Rys. | Oakland | Granted | Jan. 30, 1915 |
| 2126 | 150 | County of Madera. | Fairmead Colonies | Dismissed | Feb. 4, 1915 |
| 2127 | 267 | County of Los Angeles. | Los Angeles | Dismissed | Feb. 4, 1915 |
| 2128 | 325 | County of San Mateo. | San Mateo Co. | Dismissed | Feb. 4, 1915 |
| 2136 | 1523 | Atchison, Topeka and Santa Fe Ry. Co. | Richmond | Granted | Feb. 6, 1915 |
| 2155 | 1535 | Atchison, Topeka and Santa Fe Ry. Co. | Vernon | Granted | Feb. 23, 1915 |
| 2156 | 1362 | County of San Bernardino | San Bernardino | Dismissed | Feb. 23, 1915 |
| 2157 | 135 | Northern Electric Ry. Co. | Chico | Granted | Feb. 23, 1915 |
| 2158 | 1003 | Board of Supervisors of Fresno Co. | Fresno Co. | Granted | Feb. 23, 1915 |
| 2159 | 1361 | County of San Bernardino | San Bernardino Co. | Dismissed | Feb. 23, 1915 |
| 2176 | 1517 | Southern Pacific Co. | Fresno Co. | Granted | Feb. 27, 1915 |
| 2177 | 1518 | Southern Pacific Co. | San Francisco | Granted | Feb. 27, 1915 |
| 2183 | 1552 | Southern Pacific Co. | Bloomington | Granted | Mar. 1, 1915 |
| 2184 | 1553 | Southern Pacific Co. | Fresno | Granted | Mar. 1, 1915 |
| 2185 | 1554 | Southern Pacific Co. | San Francisco | Granted | Mar. 1, 1915 |
| 2199 | 1556 | Board of Supervisors of Madera Co. | Madera Co. | Granted | Mar. 5, 1915 |
| 2207 | 1566 | Southern Pacific Co. | West San Jose | Granted | Mar. 11, 1915 |
| 2208 | 516 | Board of Supervisors of Madera Co. | Madera Co. | Granted | Mar. 11, 1915 |
| 2209 | 1437 | Minkler Southern Ry. | Lindsay | Granted | Mar. 11, 1915 |
| 2210 | 1558 | Southern Pacific Co. | Lompoc | Granted | Mar. 11, 1915 |
| 2211 | 1559 | Southern Pacific Co. | San Jose | Granted | Mar. 11, 1915 |
| 2234 | 1541 | Pacific Electric Ry. Co. | Long Beach | Granted | Mar. 18, 1915 |
| 2235 | 1583 | Fresno Traction Co. | Fresno | Granted | Mar. 18, 1915 |
| 2261 | 1593 | Southern Pacific Co. | San Francisco | Granted | Mar. 26, 1915 |

| Application No. | Decision No. | Applicant | Location | Action | Date |
|--------------------|-----------------|--|---------------------------------------|-----------|---------------|
| 2277 | 1606 | Southern Pacific Co..... | Los Angeles | Granted | Apr. 5, 1915 |
| 2282 | 1605 | Southern Pacific Co..... | Callexico | Granted | Apr. 9, 1915 |
| 2283 | 1615 | Atchison, Topeka and Santa Fe Ry. Co..... | Orange Co. | Granted | Apr. 9, 1915 |
| 2285 | 1032 | Pacific Electric Ry. Co..... | Rialto | Granted | Apr. 9, 1915 |
| 2291 | 1595 | San Diego and Arizona Ry. Co. | San Diego and Imperial counties | Granted | Apr. 14, 1915 |
| 2292 | 1619 | City and County of San Francisco | San Francisco | Granted | Apr. 14, 1915 |
| 2320 | 1620 | City of Lindsay | Lindsay | Granted | Apr. 21, 1915 |
| 2321 | 1634 | Atchison, Topeka and Santa Fe Ry. Co..... | San Francisco | Granted | Apr. 21, 1915 |
| 2331 | 1597 | S. M. Phillips | Sacramento | Dismissed | May 3, 1915 |
| 2332 | 1646 | City Railway Co. of L. A. | Vernon | Granted | May 3, 1915 |
| 2333 | 1652 | Atchison, Topeka and Santa Fe Ry. Co..... | Riverside Co. | Granted | May 3, 1915 |
| 2344 | 1330 | Los Angeles Trust and Savings Bank | Los Angeles | Dismissed | May 3, 1915 |
| 2357 | 1656 | Pacific Electric Ry. Co..... | Rialto | Granted | May 7, 1915 |
| 2365 | 1632 | Southern Pacific Co..... | El Centro | Granted | May 8, 1915 |
| 2366 | 1643 | Atchison, Topeka and Santa Fe Ry. Co..... | Vernon | Granted | May 8, 1915 |
| 2398 | 1660 | Pacific Electric Ry. Co..... | Los Angeles | Granted | May 17, 1915 |
| 2399 | 1601 | County of Tulare | Tulare Co. | Granted | May 17, 1915 |
| 2402 | 459 | Northern Electric Ry. | Solano Co. | Granted | May 20, 1915 |
| 2413 | 1623 | Pacific Electric Ry. Co..... | Los Angeles | Granted | May 24, 1915 |
| 2414 | 1664 | Board of Supervisors of Los Angeles Co..... | Los Angeles Co. | Granted | May 24, 1915 |
| 2427 | 1370 | County of Kern | Kern Co. | Granted | May 26, 1915 |
| 2436 | 1688 | Pacific Electric Ry..... | Corona | Granted | May 29, 1915 |

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